Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

No.

In the Supreme Court of the United States

CAROLE L. TAYLOR, PETITIONER

v.

NEGLEY PARK HOMEOWNERS ASSOCIATION, ET.AL. RESPONDENT (S)

On Petition For Writ Of Certiorari To The Supreme Court Of Western Pennsylvania

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PETITION FOR A WRIT OF CERTIORARI

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412-661-2415

Questions Presented for Review

In 2008, responding to the concerns the Negley Park Homeowners Association Council placed Petitioner in is discriminatory, and placed the Petitioner in a disadvantage by the violations of the Code of Regulations and Declaration for many years. The Council has acted in a bad faith, and self-dealing manner against the only unit owner who is not on Council, and has no voice in the day to day business affairs of the four unit condominium. The Petitioner is the only Black unit owner.

The Uniformity Act of 1978 and revised 1980, that provides that the burden of proof on any fact driven issue will shift to the Association's Council for the Petition produced relevant documentation and cooperation with the Council and presents credible evidence, which has been uniformly defined as evidence sufficient to establish the basis of a decision in Petitioner's favor, subject only to the introduction verbally that is contrary to the evidence by Respondents.

In this case, Respondents did not meet the Standard for shifting the burden, and the Petitioner had to settle for the hope that the Council would follow the remedy issued by the court that did not happen. The Court failed to find in the Council's action the violations of the Code of Regulations, using the Uniformity Condominium Act needs to be addressed by

the Supreme Court, if the Petitioner is to receive relief. The decisions by the State Courts is the only evidentiary submission held to be worthless and in disputable fairness to serve all unit owners, the Council was to follow the Court Order of September 11, 2006 sought to make a ruling instructing the Council to conduct the business affairs according to the Code of Regulations of the Negley Park Homeowners Association.

In this case, the Lower Court did not put into place benchmarks that would monitor whether or not the Council had carried out the Order of Court especially since the Lower Court retained jurisdiction of the matter. By the Court loosely putting in place generalities for the Council to follow as to the Code the Council did not even adhere to the elections of officers.

The Council can only serve for two years, reelected the Vice President, who had served on Council since 2003, and has not resided in the State of Pennsylvania since June 1, 2005, therefore, not allowed to be on Council knowing she would be in violation of the Code, along with the other two Council members, their Counsel Robert Garvin, who officiated the annual meeting, February 19, 2007 the Council voted her back on Council.

In this case the Superior Court affirmed the decision of the Lower Court stating Council is

conducting the Association business affairs according to the Code, and in compliance of the Code, and in the best interest of all unit owners when this was not a true fact of findings, and there is no evidence found in the court record.

The questions presented are:

1. Whether the Superior Court erred by upholding the decision of the lower court, which refused to dissolve the form of the condominium ownership despite the lower court's acknowledgment that the Council failed to operate the Code of Regulations pursuant to the Condominium Act 68 C.S.A.742 1980.[1]

2. Whether the Superior Court erred in upholding the finding of the lower court that there exists a legal entity known as, Negley Park Homeowners Association, that the Homeowners Association Council had authority to conduct business, to collect money from the unit owners, and thereby

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1. The Unit Property Act was repealed on July 2, 1980, when the legislature enacted the Uniform Condominium Act, 68 Pa. C. S. A. § 3101 et seq. The Uniform Condominium Act applies only to Condominium created after July 2, 1980, while the Unit Property Act continues to apply to Condominiums established prior to July 2, 1980.

ordering Appellant to turn over her money to the Association's Council.

3. Whether the alleged Council is a valid Council when no annual meetings were held 2003, 2004, 2005, and 2006 regarding compliance with the Code of Regulations and Council to comply to the Order of Court September 11, 2006.

4. Whether the Council violated the Code of Regulations Article IX, Section (6)[2] sale lease or rent the Unit, the unit owner must first present an offer to the Council and allow the Council for 30 days, time of the essence, not a contract to allow the Council to exercise their right of first refusal.

5. Whether the Court erred by waiving the Petitioner attorney/client privilege under U.S. Constitution Amendments 3, 5, and 14 in the August 23, 2006 Order of Court when Council was campaigning on behalf

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2. Article IX, Section (6)Pursuant to Article IX, Section (6) of the Code of Regulations (hereinafter referred to as Any owner) thirty (30) days prior to accepting any offer to sell, lease, or rent give to Council written notice of the terms of such an offer which notice shall specify, name and address of the offeror. If within said thirty (30) day period time being of the essence, Council or its nominee submits to Owner an identical or more favorable offer to sell, lease or rent the selling owner must accept the offer of said Council in preference to the original offer described in the notice....

of the Judge, and placed a political sign in Petitioner's front yard right at her front steps that she shares with Council.

6. Whether Respondents, the Council met all criteria for shifting the burden of proof under the Code of Regulations, the Condominium Uniformity Act 68 C.S.A. 742 to dissolve Negley Park Association, for there was no means to remedy the matter that had no possible chance to be resolved without some authority overseeing whether or not the Council is carrying out the business affairs of the Code of Regulations and Declaration.

7. Whether the Court's acknowledging that the Negley Park Homeowners Association Council was conducting properly the business Affairs and whether or not it is a legitimately registered unincorporated condominium, when it is not registered as a legal entity in the Commonwealth of Pennsylvania, no evidence exist of record that the Council was operating lawfully.

8. Whether the Court erred by refusing to require the alleged Council to provide a statement of the financial operations, and to provide the Petitioner an opportunity at the September 6, 2006,trial to view and utilize the financial records of the Council, to use for her defense to determine how the funds were being spent, etc.

9. Whether or not the court's findings that the garages would create a problem if the Negley Park Homeowners Association structure was dissolved when there are over 30 garages in the alley, when all property owners share in the maintenance equally.

10. Whether the Court erred in its findings that acquires a fidelity bond, but allow the Council to continue to refuse to secure a bond as required by the Code Article IV, Section (10)[3]

11. Whether the Court erred in its findings not to dissolve the Association Code of Regulations and Declaration that keeps the Petitioner entrapped in doing just what the other three unit owners tells her to do, for they vote in a group, against the Petitioner's health and emotional well being.

12. Whether the lower court erred in its conduct by ignoring how the council did not handle the Association's business affairs according to the Code of Regulations and leaving in place a mechanism of non-assurance that the Council's conduct in carrying out the Association's business

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[3].Article IV, Section (10): Bonded. The Council shall require that all officers and employees handling its funds shall furnish a fidelity bond in such amounts, as Council shall determine.

affairs according to the Code for the Council, who are unit owners have served on Council since 2003 using, Property Act of 1980. 68 P. S. 700.101.68 P.S.700.35, and 68 P.S. 805. [4]

13. Whether the Court erred in its abuse by not addressing why the Council has continued to serve on Council for many years in violation of the Code that clearly states a Council member serves for a term of two year, Article IV, Section (4)[5]

14. Whether the Court erred by not addressing why Attorney Robert Garvin re-electing one of the Council members, Margaret Messmer, as Vice-President, who lives in Massachusetts with her fiance since June of 2005, then purchased land in the State of Arizona. She is still on Council, in violation of the Code, Article V, Section (1)[6] "Designation", The Council members can only serve for two years. All three -unit owners who are

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[4].The Unit Property Act of 1980. 68 P.S. 700. 101, 68 P.S.700.35, and 68 P.S. 805.

[5].Article IV, Section (4): COUNCIL. Election and Term of Office. At the annual meeting of the Unit owners.

[6].Article V, Section (1): Designation. The principal officers of the Council shall be a President a Vice President, a Secretary and a Treasurer, all of whom shall be elected by, and from the Council.

the Council members can only serve for two years. All three -unit owners who are Council members are to be residents of the State of Pennsylvania, but need not be Unit owners. The Petitioner lives right on Site but Council also unit owners, will not allow Petitioner to be on Council.

15. Whether or not the Court erred by not addressing the dissolution of the condominium structure, for the court would have recognized the Petitioner is at a disadvantage and a conflict of interest in that there was never any fairness as to what gets done and what does not get done as to the common elements of the condominium building of four (4) units; for the Council consist who are the Respondents in this matter and are also unit owners: an aunt, a niece of the aunt, and a close friend of the two.

16. The entire Council comprises three out of a total of four unit owners. The Petitioner is the only unit owner that is not on Council, and the only non -White person who lives there, but the three unit owners will not allow for the Code to be enforced (See Affidavits). (Appendix M). The Council states even if we held an annual meeting, the Petitioner would not be elected on the Council.

17. Whether the Court erred by keeping the

condominium structure in place for it appears drafted for a large condominium complex of many units not for a building that comprising only four units. Before the 1978, had the building registered as the Negley Park Apartments, and when they sold the property to the new owners in 1978. The Negley Park Apartment owners sold the building in 1978, and called the Negley Park a Pa. Unlimited Partnership were the ones who drafted this Code of Regulations and Declaration, and sold immediately all four of the units by January of 1979.

18. Whether or not the Court erred by not examining the Code Article V, Section (1)[7] for the Code, clearly shows that this Code and Declaration is flawed. Further, to have anyone in the State of Pennsylvania to govern the business affairs of the owners who live there would continue to pose serious problems with discriminatory practices for them also. The unfair treatment the Council uses against the Petitioner is an on going problem that stems from the very year she purchased her unit in 2003. If anyone else purchases a unit in the buildi..g they will be faced with the same problems the Petitioner experiences now with the Code violations by the Council.

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[7].1bid. [6]"Article V, Section (1)"

19. Whether or not the Court erred by not creating a mechanism that would watch closely the Council use of the Uniformity Property Act of 1980 and compare it with the Code the Council uses before the Court made its ruling that kept all of the previous discriminatory practices, bad faith and self dealing against the Petitioner that took place by the Council who are also unit owners who refuse to allow the Petitioner on Council and she is the only unit owner who is not on Council which helps to create the poor treatment against the Petitioner in which she is still experiencing?

20. The Uniformity Condominium Act of 1980 also poses major problems for condominiums that house small number of units that are written as it stands, for that is the Act, along with the Code and Declaration, the Council is using to keep in place the discriminatory practices. The Petitioner believes the condominium structure should be dissolved.

21. Whether the Court erred by not reviewing what on February 19, 2007 the Council was to do besides electing a new Council in which the Council met and violated, the Code Article IV, Section (4).[8] by

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[8] Ibid.[5] Article IV, Section (4).

voting themselves back on Council, after already serving on Council for two years.

22. Whether the Court erred in its abuse of discretion and due process of law. The Code, Article IV Section 2 and 3 and Article VI, Section 2 (7).[9] Article VI, Section 2 (4)[10] Surplus Funds, the unit owners are to share equally the condo fees left over at the end of the year. The condo fees were never shared with the Petitioner, only the three of them, who are the Council, keeping Petitioner out of the loop in sharing of the refund, and she paid her condo fees.

23. Whether the Court erred by not putting in place guidelines for Council to follow the Code of Regulations, Article IV, Section 2 (1) and (3), Article VI, Section 2 (7),[9] Article IV, Section 2 (4)[10] Surplus Funds, and Article IX, Section (6)[11]

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9. Article IV, Section 2 (1), and (3) Council: Article VI, Section 2 (7): Personal Property Council members to act as trustees on behalf of the unit owners for the purpose of holding title, in trust for the unit owners. And from time to time held for the joint use and enjoyment of all unit owners, whether situated in the common elements, or elsewhere, shall be vested in all unit owners in accordance with their percentage interest.

10. Article VI, Section 2 (4) 10 Surplus Funds: be refunded in whole or in part to the then Unit owners according to percentages attached to each unit...

11. Ibid 2 Article IX, Section (6)

Council did what it wanted to do The unit owners were not able to participate in the assets after the Association's Council purchases the property and holds it in trust for the unit owners who shall be vested from time held whether situated in the common elements, according to their percentage interest....

24. Whether or not the Court erred in its abuse of discretion and due process of law by not addressing the serious violations of the Code of Regulation by the Council's violations not in the best interest of the Petitioner and the specific violations are Article IX, Section (6)[12] Article IX, Section (3) [13] and Article XII.[14] By the Court not addressing

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12.Ibid. 2 Article IX, Section (6).

13. Article IX, Section (3): Non-Compliance: with code of regulations administrative provisions, covenants etc. owners, or in a proper case, by an aggrieved Unit owner or by any person who holds a mortgage lien upon a Unit and is aggrieved by any such non-compliance. or in deeds of Units or in the Declaration Plan shall be grounds for an action for the recovery of damages or for injunctive relief, or both, maintainable by any member of the Council on behalf of the Council or the Unit owners, or in a proper case by an aggrieved Unit owner.

14.Article XII: EXCULPABILITY: OF COUNCIL AND OFFICERS: Malfeasance and Misfeasance good faith actions by Council officers in the execution of duties liable to unit owners for acting in bad faith.

and awarding Declaratory Judgment and Injunctive Relief. By the Council not exercising their right of first refusal Article IX, Section (6) 15 and matching the third party's offer, and accepted the third party's contract, that was to be an offer, violated the Code Article IX, Section (6) 16 and the unit owners lost out financially the proceeds that the unit owners would have received for years if the Council had purchased the unit that was for sell, the Council acted in bad faith, and self-dealing. By the owner's decision who is a Council member and officer as well as the unit owner who was selling her unit all moved to vote to sell the unit.

25. The Council acts as the governing agents, and are not paid compensation for their services found in the Code, Article IV, Section (16).17 Also, unit owners are elected to Council every two years.

26. Whether the Court erred in not recognizing that the Council never held

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15. Ibid. 2, Article IX, Section (6).

16. Ibid. 2 Article IX, Section (6).

17. Article IV, Section (16):No Compensation. No member of Council shall be compensated for acting as such.

a meeting with the unit owners to get their input before calling a special meeting to purchase the property under the Code Article IV, Section 2 (1) and Article VI, Section 2 (7) states the Council is to hold the property in trust for the unit owners after the Council purchased the unit but for many years has conducted the business affairs of the Association negligently. The vice president of Council stated at the September 6, 2006 hearing there was no need in having annual meetings for they just did things as it came along. It is Council's actions that created discriminatory practices. against Petitioner in violation of the Code and Declaration for years.

27. Whether or not the Court erred by not addressing Council's Violation of Article IX, Section (6) [18] is one of the units in the condominium, thus, Council violated the Code, Article IX, Section (6) [19] Article IX, Section (3) [20] non- compliance, Article XII, [21] EXCULPABILITY: Malfeasance and Misfeasance caused Petitioner to seek legal remedy in the court, and

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18. Ibid. 2 Article IX, Section (6).

19. Ibid. 2 Article IX, Section (6).

20. Ibid. 13 Article IX, Section (3).

21. Ibid. 14 Article XII.

resolution of all of the violations of the Code and Declaration that governs the Council, not excluding the dissolution of the Association.

28. Whether the Court erred in not addressing why Attorney Robert Garvin needs to officiate at the annual meeting, and not giving the Council proper advice to not violate the Code of Regulation, and adhere to the guidelines of the Code and Declaration. Further, why are the majority of the condo fees being paid to their attorney for the services on a law suit against the Council for violations of the Code of Regulations when the common elements needs major repairs.

29. Whether the Title to any personal property from time to time is to be held for the joint use and enjoyment of all unit owners whether situate in the common elements, or elsewhere, shall be vested in all unit owners.

30. Whether the Court erred in not ordering the Council to submit to the unit owners a statement of the operating budget in violation of Article IV, Section (2).[22] The

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[22] Article 4 Section (2)[10] COUNCIL: Powers and Duties: at annual meeting to unit owners submit statement of operations and general financial condition for ensuing year.

Council has acted in conducting the business affairs of the Association in bad faith and self- dealing for years.

32. The Code allows for any aggrieved unit owner can seek legal remedy in the courts. The Council is personally liable, and shall be bound by good faith actions.

33. Whether or not the Court's decision to keep the condominium in place, were proper, for the unit owners comprises the Council, and who votes in a group of three, out of four unit owners. The Council's actions is unfair and creates the poor treatment against the Petitioner who is seeking the dissolution of Code of Regulations. The Uniform Condominium Act enacted in 1980. 68 C.S.A. 3101 [23] is written in such a way that violates the Pennsylvania and U.S. Constitutional rights of the Petitioner's rights to life, liberty, and the pursuit of happiness.

34. The Uniformity Condominium Act, is flawed and also should be redesigned to make it fair for all Associations that use a Council to govern the business affairs of unit owners, regardless of whether it is a small building of four units, or a building that has 125 units.

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23. Ibid.[1]

LIST OF PARTIES

1. All parties do not appear in the caption of the case on the cover page. A list of all parties in the proceeding in the Court whose judgment is the subject of this petition is as follows:

i. Negley Park Homeowners Association an unincorporated association:

ii. Theresa Flati - Council President-unit owner

iii. Patricia O' Kane- Council Secretary/ Treasurer –unit owner

iv. Margaret Messmer – Council Vice-President-unit owner

v. Carole L. Taylor – unit owner

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Salisbury Township v.Vito, 285 A. 2d 529 (Pa. 1971).

PETITION FOR WRIT OF CERTIORARI

AND NOW, comes the Petitioner, Carole L. Taylor, *Pro Se*, and respectfully request this Honorable Court grant a Writ of Certiorari be issued to review Pennsylvania Western District entered on August 25, 2008.

OPINIONS BELOW

On December19, 2007, in a judgment and Opinion entered at No.28 WDA 2007,the Superior Court of Pennsylvania affirmed the judgment entered on December 1, 2006, in the Court of Common Pleas of Allegheny County by the Honorable Ronald W. Folino at No. GD 05-11900. ("Appendix A").

The Opinion of the Honorable Ronald W. Folino of the Court of Common Pleas of Allegheny County, dated September 11, 2006, (made final December 1, 2006 by denying Petitioner's request for post trial relief attached hereto, incorporated herein by reference, and referred to as ("Appendix B").

On June 26, 2008, in a non-decision to hear the case entered a decision that denied the Petitioner's Petition for Allowance for Appeal by court order with Mr. Justice McCaffery did not participate in the consideration or decision of this matter. ("Appendix C").

In this case, the Pennsylvania Supreme Court denied hearing the case June 26, 2008. In this case, the Pennsylvania Supreme Court denying reconsideration of the case August 25, 2008. ("Appendix D").

JURISDICTION

The date on which the highest state court decided my case was August 25, 2008. A copy of this decision appears at (Appendix D). The jurisdiction of this Court is invoked under 28 U.S.C.§ 1257(a).

STATUTORY PROVISIONS INVOLVED

The petition for a writ of certiorari filed in this case will present similar questions under Article II of the United States Constitution and 3 U. S. C. § 5, as well as the Fourteenth Amendment.

STATEMENT OF THE CASE

This is an appeal from the final decree entered in a declaratory judgment action commenced by Petitioner, who is the owner of one unit in a four-unit condominium structure. Petitioner seeks to dissolve the condominium entity and the homeowner's governing council, to prohibit the council from acting on behalf of Petitioner and the other three owners are in violation of The Code Article IX Section (6).

The lower court denied Petitioner's claims for relief.

The real estate at issue consists of a single two-story building of four units, numbered 1402, 1404, 1406 and 1408, and is known as Negley Park.

There are two units on the first floor (1402, 1404) and two units on the second floor (1406, 1408). The condominium was created by the Declaration, and the Code of Regulations of the Condominium Ownership (Appendix E), recorded on November 29, 1978, in Allegheny County Recorder of Deeds Office at Deed Book Volume 6039, page 681. The Council that governs the administration of Negley Park Code of Regulations was recorded the same date at Volume 6039, page 695.

The Respondent, Negley Park Homeowners Association Council, is an unincorporated association consisting of three individuals who are owners of condominium units located at 1402, 1404, and 1408 North Negley Avenue, Pittsburgh, PA 15206.The Respondent, Margaret Messmer, is an adult individual, who is allegedly a current member and Vice President of the Negley Park Homeowners Association Council (hereinafter referred to as the Council). The Respondent Margaret Messmer is an owner of a condominium unit at 1402 North Negley Avenue, Pittsburgh, PA 15206. Taylor is a unit owner who purchased a

second floor unit (No.1406) July 23, 2003 with three other unit owners, each having a 25% interest) represented by the Negley Park Council, that consists of three unit owners who are the members of this Council. Petitioner is the only owner not a member of the Council. The Council members are to be elected at the annual unit owners meeting, and serve a term of two years. The annual unit owner meetings are to be held February of every year.
Petitioner has been a unit owner since 2003, and there were no annual meeting held February 2003, 2004, 2005 or 2006. This fact was established at the September 11, 2006 hearing, and the lower court's Court Order ("Appendix B") finds that the Council has not conducted business as required by the Code of Regulations.

On August 22, 2005 Petitioner, Carole L. Taylor, (hereinafter referred to as "Petitioner"), filed an amended complaint in equity seeking (in Count II) to have the lower court declare that the current condominium association council (the governing body of the condominium units, hereinafter referred to as Council) is not a duly elected Council, and not legally registered, in the Commonwealth of Pennsylvania, therefore, had no legal authority to act on behalf of Petitioner, nor to act on behalf of any of the other unit owners.

On September 6, 2006, a hearing was conducted, limited to the issues raised in

Count II. Count I of the amended complaint seeks injunctive relief against a unit owner by the name of, Margaret Messmer. By Order of Court dated November 18, 2005 ("Appendix F"), Count I was severed from Count II, which enabled the parties to proceed to trial and final judgment on Count II only against the Negley Park Homeowners Association report of its general financial conditions.

The Council failed to conduct business pursuant to the Code and regulations by:

1. Failing to conduct an annual meeting in February 2003, 2004, 2005, and 2006, as required by the Code of Regulations;

2. Failing to conduct elections of Council members for the past four (4) years, and that the current Council members are not duly elected, and do not have the power to act on behalf of unit owners;

3. Failing to prepare a proposed budget and failing to mail a copy to Petitioner;

4. Failing to submit financial statements of operations to Petitioner for four years;

5. Failing to investigate the poor treatment carried out by Council acting in concert with one another against Petitioner using trickery and misrepresentation in both, Count I and II in a secret meeting causing

Petitioner to pay both law firms when one law firm could have handled the matter, count I and count II, since the Vice-President secretly hired the Council's Attorney Robert Garvin of the Count II matter, August 22, 2005 who was hired to work with the lawyers in Count I matter;

6. Failing to hold a hearing before taking away Petitioner's Pennsylvania and U. S. Constitutional rights to attorney/client privilege on a false letter sent to the Court July 5, 2006 and the court did not even give Petitioner an opportunity to defend. (August 23, 2006, Court Order denying Emergency Motion Protection Order, (Appendix G), and August 23, 2006, Court Order denying Petitioner's attorney/client privilege (Appendix H). The deposition was the next day, August 24th. and took 4 hours and 10 minutes with no lunch hour, and the Petitioner has a disability. This deposition was allegedly held to ask the Petitioner two questions;

7. The Petitioner's amended letter outlines what took place at that deposition, September 15, 2006; (Appendix I);

8. The September 11, 2006 Order also required Petitioner to release the funds she was withholding since July 2005, representing her $125 per month, condo fees paid monthly. The Order was entered

> despite the fact that the testimony at trial was that the entity was not registered in the Commonwealth as a fictitious entity, and as such, the Council has no standing to bring a cause of action in any court in the Commonwealth of Pennsylvania

In particular, as required by Article IV, Section (2) Subsections (5).[24] The Council shall submit at each annual meeting of the Unit owners a statement of the operations of Negley Park during the preceding year, together with a report of its general financial condition, 2003, 2004 and 2005, nor a report of its general financial condition.

The Council shall submit at each annual meeting of the Unit owners a proposed budget a copy mailed to each owner 10 days prior to the Unit owners annual meeting which has never been done. Article IV, Section (2) Subsection (6).[25]

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[24] Article IV, Section (2), Subsection (5): Powers and Duties. statement of the operation: The Council shall submit at each annual meeting of the Unit owners a statement of the operations of Negley Park during the proceeding year together with a report of its general financial condition.

[25] Article IV, Section (2) Subsection (6): Powers and Duties: The Council shall make or cause to be made a proposed budget for the ensuing year a copy of which shall be mail to each unit owner at least 10 days prior to the Unit owners annual meeting.

The Council shall submit at each annual meeting of the Unit owners a statement of the operations of Negley Park during the preceding year, together with a report of its general financial condition. Reports shall be for the ensuing year being 2006.

The September 11, 2006 Order required that Council comply with these sections in future years. There is no evidence in the record which demonstrates that the Council has been complying with the September 11, 2006 Order of Court.

The Court should have been able to conduct a hearing to see whether or not the conflict of interest and the appearance of impropriety, as the Council was campaigning on behalf of the Judge, placing a political sign in the front yard of Petitioner right next to the front steps, she shares with Council May 11, 2007 (See enclosed (Appendix J), On September 20, 2006, the Petitioner filed Motion for Post-Trial Relief.

On December 1, 2006 (Appendix K) and docketed December 4, 2006, the lower court entered its order denying Motion for Post - Trial Relief. (Appendix A) On December 27, 2006, Petitioner filed her Notice of Appeal to the Superior Court, which affirmed the lower court by its order of December 19, 2007.

REASONS FOR GRANTING THE PETITION

The Petition for Writ of Certiorari should be granted to prevent individuals who are in similarly situated to the petitioner from being in the same disadvantaged position as the Petitioner. Specifically, Petitioner has been left in a position at her condominium unit where she has absolutely no voice as to the manner in which her condominium fees are spent and the day -to -day operations of the condominium. Furthermore, Petitioner has been disadvantaged by the lower courts refusal to order the condominium's Council to conduct business in accord with its own Code. If the Petition for Writ of Certiorari is not granted, other individuals who own condominium units will be left without legal recourse when the association or Council governing their condominium fails to conduct business in accord with the law.

Furthermore, when dealing with a small condominium association as this one of four (4) units, and the three (3) unit owners being family members, and a close friend, will prevent the Petitioner from having a voice that would count in the decision making of the business affairs of the condominium.

The fact that the three (3) unit owners vote in a (group of three, and excluding Petitioner from being on Council, is discriminatory and

other condominium association that is forced to follow the Code and Declaration and governed by the Condominium Act of 1980.

This situation will continue for everyone that is in the same or similar situations as the Petitioner will always be excluded because the three unit owners will always vote themselves back on council, and conduct the business affairs as they see fit excluding the fourth unit owner who has a twenty-five per cent ownership in the condominium, and is forced to pay 25% of the condo fees required by the Code and Declaration, but the Council uses the condo fees as they see fit always creating discrimination against the Petitioner, or any other unit owner that is faced with a similar situation or an identical situation as the Petitioner is faced with on a daily basis.

The Superior Court's decision states the Unit Property Act, 68 P. S. 700.35, does provided the Petitioner with sufficient remedy as an aggrieved unit owner for injunctive relief, damages, or both. The Superior Court found that the remedy Petitioner was seeking was specifically not provided for in the Unit Property Act ("Appendix L"). It found the remedy fashioned by the lower court's order, December 19, 2007 ("Appendix A"), provided Petitioner adequate relief.

However, a close examination of the lower

court's order reveals that the Council was ordered to hold an annual meeting, and elections in 2007, but the major concerns by the Petitioner for Code violations were never addressed. There is no ongoing requirement for the Council to act in accordance with the Code of Regulations, nor is there any sanctions provided, if the Council fails to act as required.

The Council in their identical Affidavit June 3, 2005 filed with the Court that even if they had held an annual meeting each stated individually that the Petitioner would not have been elected to the Council. See the three Affidavits enclosed. ("Appendix M").

The Superior Court did not address in its opinion the portion of the lower court's order that Petitioner must release the condominium fees she had been escrowing during the pendency of the action but the Council never requested the relief. It was educed at trial that the Negley Park Homeowners Association Council had not registered itself as a fictitious entity as required by the Fictitious Name Act, in the Commonwealth of Pennsylvania. The Council's Attorney Robert Garvin sent a letter November 6, 2006 ("Appendix N") to Petitioner regarding making arrangements to file with the State of Pennsylvania the fictitious name, but he did not. Therefore, the Council would be unable to request the relief as fashioned by the lower court, as it has no standing to bring a lawsuit in the State of Pennsylvania

(Commonwealth). Yet, the Court granted it anyway.

The Negley Park Code and Declaration of the Condominium Ownership provides for termination of the condominium structure in Paragraph 13, in which it authorizes termination as provided by the Unit Property Act. The Act (since repealed and replaced with the Uniform Condominium Act, 68 Pa. C. S. A. §3101, but still applies to condominiums formed prior to 1980) provides for removal of the association upon agreement of all unit owners who are holders of a mortgage, a judgment, or other liens against the property. 68. P. S. §700.601. Neither the new act nor the old act specifically provide for judicial termination.

However, this Court has found the Courts have the authority to review the actions of condominium councils, and to apply the principles of law, including the Unit Property Act laws governing corporations and unincorporated associations. Specifically, in **Lyman v. Boonin**, 635 A.2d 1029 (Pa.1993) this Court found that when an association engages in such self-dealing or bad faith, and the Act is silent, judicial relief is available. Such is the case at bar.

The Act does not address the type of self-dealing which the Council is engaged. Petitioner requested judicial determination

that Council is an unauthorized body to govern the business affairs of the Association
by virtue of its failure to neither hold annual meetings for the years, 2004, 2005 and 2006, or obtain the required bond, nor elect Council members every two years as required by the Code of Regulations. The Members of the Council stand in a fiduciary relation to the owners association, and are obligated to act in good faith and fair dealing with all unit owners. The record is replete with testimony that the other three owners and the members of council thwarted Petitioner's attempts at every avenue. Petitioner made repeated request to the Council for repairs to maintain a healthy safe living environment, to no avail.

After years of having Petitioner's interest unrepresented, Petitioner had no choice but to file the instant action to seek dissolution of the Association as other previous owners dissolved their corporation when they sold the property (Appendix O); but the Negley Park Pa. Unlimited Partnership owners, who purchased the property in 1978, (Appendix P), sold the property to four different individuals, forcing the new unit owners had to keep the previous owners' Declaration and Code of Regulations.

The three members on Council are also unit owners and have isolated Petitioner, the fourth unit owner, leaving her without a voice in the decision- making of the condominiums

business affairs, thereby the Council is discriminating against the Petitioner.

By not holding any meetings, the three unit owners did not have to follow the Code of Regulations ever. Thus, leaving the Petitioner out of the loop of decision making which is a clear violation of her Pennsylvania, and U. S. Constitutional rights to life liberty, and the pursuit of happiness – Amendments: 3, 5, and 14 of the U. S. Constitution).

Pennsylvania Court's have found that if a governing body either failed to act, or acted in such a manner as to substantially defeat the expectations of the members, for the Court has authority to dissolve the entity. **Gee v. Blue Stone Heights Hunting Club, Inc.** 604 A.2d 1141 (Pa. Cmwlth, 1992). When a minority shareholder, such as Petitioner, is oppressed, judicial relief is available. **Leech v. Leech**, 762 A.2d 718 (Pa. Super, 2000).

It was educed at trial that Council failed to call and hold annual meetings and elections, failed to provide proposed budgets, ignored Petitioner's repeated requests for maintenance an improvement that Council does not meet nor keep its records at the office address listed in the Code of Regulations.

Council has failed to post a bond. Council acted in bad faith and self-dealing in that, the Vice President of the Council ignored the Code

Article IX, Section (6) and accepted the contract without first going to the Council to see if they were going to exercise their right of first refusal by retaining separate legal counsel while Association's prior law firm continues to represent the Vice President of Council. Margaret Messmer. The Respondent and a member of the Council, as well as the Vice President had a financial interest in the sell of her unit, her aunt who is a unit owner and Secretary/Treasurer of the Council created a conflict of interest for she voted to sell the unit to the third party without finding out what the unit owners wanted to do for they never called a meeting of the unit owners before acted sua sponte and just agreed to not get any input in whether or not the unit owners wanted to buy the unit in direct conflict with the interest of the other unit owners, including the Petitioner.

The only ways this self - dealing and oppression can be stopped, is by dissolving the entity, and allow each unit owner equal voice in the decision- making of the business affairs, regarding the property. In ordering the Council to operate as required under the Code, the Court provides an avenue for this continued oppression.

The remedy fashioned by the lower court did not provide the Petitioner with any relief. Even assuming, *argunedo* that the Council begins to operate in accordance with the Code.

Petitioner is still aggrieved. She still has no voice; she is still oppressed, and her interests are still being ignored. The only way the Petitioner will ever have a voice in the decision making of the business affairs of the association is by dissolving Negley Park Homeowners Association condominium entity. The February 19, 2007 meeting, the vice-resident of Council came back into town and had herself reelected back on Council. ("Appendix Q"), (See February 19, 2007 minutes enclosed).

The Petitioner asked the Court to have the meeting at another place, but the Court did not respond to her letter or concerns, until after February 19, 2007 by Court Order. February 21, 2007. (Appendix R). At that point, the unit owners will have equal say, and equal voice, including the Petitioner.

The alleged Council has and continues to engage in a systematic oppression of the Petitioner's right as a unit owner, and a member of the Association. Requiring them to adhere to the Code of Regulations does nothing even to this day to stop this oppression. The only remedy the Petitioner has is the dissolution of the condominium entity.

I. THE SUPREME COURT ERRED IN UPHOLDING THE DECISION OF THE SUPERIOR COURT THAT UPHELD THE JUDGMEN OF THE

LOWER COURT WHEN THERE WAS NO REMEDY BY THE SUPERIOR COURT, BUT TO UPHOLD THE LOWER COURT'S DECISION TO NOT DISSOLVE THE ASSOCIATION, WITH NO MECHANISM IN PLACE TO MONITOR WHETHER OR NOT THE COUNCIL IS COMPLYING WITH THE COURT 'S ORDER GIVEN SEPTEMBER 11, 2006 ALLOWS THE COUNCIL TO CONTINUE TO ACT IN BAD FAITH, AND SELF DEALING.

II. THE SUPREME COURT ERRED IN OVERLOOKING WHETHER OR NOT THE ALLEGED NEGLEY PARK HOMEOWNER ASSOCIATION COUNCIL HAD AUTHORITY TO CONDUCT BUSINESS, COLLECT MONEY FROM THE UNIT OWNERS, AND THEREBY, ORDERING THE PETITIONER TO CONTINUE TO PAY HER CONDO FEES TO NEGLEY PARK COUNCIL.

III. THE SUPERIOR COURT ERRED IN FINDING THAT THERE EXIST A LEGAL ENTITY KNOWN AS NEGLEY PARK HOMEOWNERS ASSOCIATION COUNCIL WHO IS TO COLLECT MONEY FROM UNIT OWNERS ALLOWING COUNCIL TO

CONTINUE OPPRESSING PETITIONER TO TURN OVER HER MONEY TO COUNCIL TO DO AS THEY PLEASE WITH IT.

As part of the September 11, 2006 Order of Court, the lower court ordered forcing the Petitioner to release the condominium fees that she had been escrowing the condo fees since July 2005 to the Respondent. That issue regarding condo fees being placed in escrow by Petitioner was never raised by Council, not in their Answer and New Matter, not in any of the subsequent pleadings, nor, not at the September 11, 2006 Petitioner and Council count II hearing. The only evidence regarding the condominium fees were questions posed to Petitioner about whether she had been paying them, and where they were escrowed. Even at Respondent's closing arguments, did the issue of requiring release of the Petitioner's condo fees to Respondents, was not raised. If the respondent feels that it is owed money, it may proceed with its own breach of contract action. Although this lawsuit has been ongoing since 2005 it neither filed its own suit for failure to pay fees, nor has it amended or filed any pleadings in the current lawsuit requesting these fees.

The reason the Respondent has not filed a lawsuit is it would expose the fact that Respondent is not a legally recognized entity

who may bring suit in the Commonwealth. It has not registered as a fictitious name, nor has it operated in any way as an official business entity. In fact, the evidence at trial was that they operated informally, getting together on an informal basis to get things done as needed, which is the exact relief that the Petitioner requests. Interestingly, these informal gatherings never resulted in repairs requested by Petitioner being authorized or undertaken.

The lower court clearly acknowledges that Respondent made no request for this relief, despite its ability to do so. In fact, while Petitioner testified that she had been escrowing her fees, there was no testimony that the other three unit owners, who have been engaged in self-dealing against Petitioner, often did not pay their condo fees on time, or not at all.

The testimony at trial was that there was only $60-$80 in the bank account, and an insurance bill was coming due. The three remaining unit owners' fees, totals $375. There should have been more money left in the bank, if all three- unit owners paid their condo fees especially, since the Petitioner paid six months in advance.

Further, testimony by the Respondents stated that the fees to pay the attorney were not being paid from the condo fees, but copies

of the cancelled checks given to Petitioner showing, some unit owners did not pay their condo fees. Petitioner's 25% condo fees went to pay Council's attorney $13,880. ("Appendix S")

There was no evidence of repairs that had been undertaken recently, with the exception of repairs paid for directly by Petitioner. For the court to force the Petitioner to turn over her condo fees to the Council that has clearly been oppressing her is unsupported by the evidence. Respondent failed to develop testimony on the issues of whether or not the Petitioner's condominium fees should be released, therefore an order directing that the condominium fees be paid to the association by the lower court and affirmed by the Superior Court is in error.

The Council has yet to comply with the 9-11-06 Court Order and the Petitioner had to file for relief for non- compliance of the Court Order 4-2-08 listed on docket (2-4-08,) ("Appendix T") Rule to show cause why they have not complied with the Order. See: January 18, 2008 Court Order ("Appendix U"), where the Superior Court affirms the lower court September 11, 2006 Court Order regarding the court denying the dissolution of the Code of Regulations, and the Declaration of the Association.

Further, the lower court committed an error of law by relying **Sack v. Feinman**, when it ordered Petitioner to pay her money over to the council. It is clear that the evidence educed at trial is that the association and Council does not exist as entities that are permitted to bring suit in this Commonwealth, i.e. they have failed to register as required by the law. Certainly a court, even sitting in equity, cannot be permitted to fashion a remedy that a litigant is not legally entitled to.

The Council, who are unit owners, continues to wield its Code of Regulations with exclusion of the only other unit owner. The only unit owner not on Council is the Petitioner who is an African American. The Council has not heard or carved out from the day the Code was invented by the Council to not give the Petitioner a voice in the decision- making of the business affairs of the alleged association. The only remedy is to dissolve the Association and form a new representation in keeping with fairness, regarding all unit owners.

Finally, the Court's ruling has overlooked the Petitioner's permanent disability and what the decision to keep the Council in place and the Code and Declaration in place has created such a great hardship for the Petitioner now and in the future.

CONCLUSION

The Petitioner is respectfully seeking the U.S. Supreme Court grants relief by the dissolution of Negley Park. The Petitioner, in an attempt to preserve her appeal rights, filed a Motion for Post Trial Relief, December 1, 2006. **Wittig v. Cartacci**, 537 A. 2d 29 (Pa. Super.1988). (The rule requiring post-trial motions be filed within ten days after notice of decision, is a procedural, not jurisdictional and accordingly, a trial Court has broad discretion to consider even untimely procedural motions). See **Karpe v. Borough of Stroudsburg, Brodsky v. Philadelphia Athletic Club**. 419 A. 2d 1285, 1287 (Pa. Super. 1980), **S.N.T. Industries, Inc. v. Geanopulos**, 516 2D 705 (1986) and **S.N.T. Industries, Inc. v. Geanopulos**, 525 A. 2d 736,737-738 n.1 (Pa. 1987) (Supreme Court reversed and remanded it back for merit consideration) where Superior Court had declined to consider appeal merits even after it was considered by the trial court. Petitioner has no adequate remedy at law except to dissolve Code and Declaration.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Carole L. Taylor

Date: 1-22-09

INDEX TO APPENDICES

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APPENDIX B...Lower Court Opinion entered September 11, 2006-12/4/06 Filed 2/28/07

APPENDIX C...Supreme Court 6/26/08

APPENDIX D...Supreme Court 8/25/08

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APPENDIX K...Court Order 12/1/06 Motion Post Trial Relief denied

APPENDIX L...Unit Property Act

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APPENDIX N...11/6/06 Association not registered in the Commonwealth of Pennsylvania p.3

APPENDIX O... Certificate of Dissolution: Negley Park 12/6/65 sold then sold again 1978 to

owners who drafted Code of Regulations and Declaration then sold to four individuals, but never dissolved

APPENDIIX P... Negley Park Unlimited Partnership purchased property 1978- drafted Code and Declaration, but did not dissolve it before selling the four units immediately to four other people in 1978

APPENDIX Q... February 19, 2007 Council's annual minutes violates the September 11, 2007 Court Order

APPENDIX R... February 21, 2007 Order of Court regarding February 19, 2007 annual meeting

APPENDIX S...Paid $13,880 for Council count II lawsuit out of condo fees the Council did not pay the attorney fees personally as testified at the hearing of September 11, 2006 Petitioner had to pay 25 % of the attorney's cost out of her condo fees.

APPENDIX T...Superior Court Order Filed: 4/2/08 –2-4-08

APPENDIX U...Superior Court Order January 18, 2008 Petition for Reconsideration without Reargument to IOP 65.39 Filed: 12/19/07

J. A32028/07

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P. 65-37

IN THE SUPERIOR COURT OF PENNSYLVANIA

CAROLE L. TAYLOR, :
APPELLANT :
:
V, :
NEGLEY PARK HOMEOWNERS :
ASSOCIATION COUNCIL, AN :
UNINCORPORATED ASSOCIATION:
MARGARET MESSMER, :
APPELLEES :

No. 28 WDA 2007

Appeal from the Order Entered December 4, 2006, in the Court of Common Pleas of Allegheny County, Civil Division, at No. GD-05-11900.

BEFORE: ORIE MELVIN, BOWES AND McCAFFERY, JJ.

MEMORANDUM: FILED: December 19, 2007

Carole L. Taylor appeals from the December 4, 2006 order denying her relief

In this declaratory judgment action. We affirm.

APPENDIX A

Appellant instituted this action to enjoin the sale of a condominium unit and for declaratory relief against Margaret Messmer and the Negley Park Homeowners Association Council (the Council). Appellant owns a unit at 1406 North Negley Avenue in a four-unit condominium complex located in Pittsburgh. Ms. Messmer owns a unit there as well as Patricia Kane, secretary and treasurer of the Council, and Theresa Flati, president of the Council. The complex is managed by the Council an unincorporated association. Under the recorded code of regulations ("code") governing the complex, an owner cannot sell a unit without giving the Council the right to purchase it at the identical price of the

proposed sales offer. Under the code, no vote or approval of the individual unit owners is required, and the Council has the sole discretion to exercise the right of first refusal.

On May 5, 2005, the president of the Council, Ms. Flati, advised Appellant that Ms. Messmer had received an offer for her unit and that the unit owners would meet on May 15, 2005. At that meeting, Ms. Messmer informed Council that she had received an offer for her unit in the amount of $83,000. Council elected not to exercise its right of first refusal. Appellant refrained from voting at that meeting. The following day, Appellant notified Council that she wanted to purchase Ms. Messmer's unit for $83,000. After failing

to receive confirmation that the unit would be sold to her, Appellant instituted this action on May 20, 2005 seeking an injunction against Ms. Messmer's proposed sale of her unit. Appellant also indexed a lis pendens against Ms. Messmer's unit.

In this action, Appellant raised these averments against Council. She maintained that under the code, council members are elected to a two-year term, and unit owners are to meet annually on the third Monday in February. She alleged that the annual meetings for 2004 and 2005 had not occurred, and the current Council members were not duly elected. She also complained

that the complex's code had been violated by the Council's failure to promulgate a budget.

Her requested declaratory relief in this action included a declaration that the current Council was not permitted to act on behalf of the complex, and Appellant also sought to have the condominium status of the complex dissolved.

After a hearing, the trial court issued an order on June 20, 2005, both denying Appellant's motion for preliminary injunction and a request by Appellees' request to have the lis pendens stricken. The action against Ms. Messmer and the demand for declaratory relief against the Council were then severed

pursuant to Pa. R.C.P. 213(b). [1] After a non jury trial held on September 6, 2006, the trial court granted in part and denied in part Appellant's requested declaratory relief against the Council. The court resolved Appellant's request for declaratory relief in the following manner:

> **AND NOW, this 11th day of September, 2006, upon consideration of the Record in this matter and after oral argument and the submission of written briefs, it is hereby ORDERED, ADJUDGED and DECREED AS FOLLOWS:**
>
> **1. The Plaintiff's claims in her**

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1. Ms. Messmer and Appellant, Appellant reached a settlement agreement regarding the sale of Ms. Messmer's unit to Appellant. Appellant refused to offer Ms.Messmer more than $83,000 for the purchase of her unit even though Ms. Messmer had suffered consequential damages arising from her inability to carry through with the original sale of her condominium unit due to Appellant's filing of a lis pendens. Ms. Messmer ultimately agreed to sell her unit to Appellant Taylor for $83,000. Appellant then failed to purchase the unit, resulting in a counter-claim filed by Ms. Messmer against Appellant.

Amended Complaint for which she is, seeking dissolution of the Negley Park Homeowners Association and the Condominium structure are DENIED.

2. The Court finds that Negley Park Homeowners Association Council has not conducted Association or Council business precisely as required by the Code of Regulations for the Association. Therefore, in accordance with Section 305 of the Unit Property Act 68 P.S. § 700.305, the Negley Park Homeowners Association and its Council are ORDERED To:

(a) Conduct an Annual Meeting of the unit Owners on the third Monday of February 17, 2007, at 8:00 P.M. In accordance with Article III Administration of the Code of Regulations.

(b) Conduct an Election of Council at the Annual meeting In accordance with Article III Administration and Article IV Council of the Code of Regulations.

(c) Prior to the Annual Meeting,

Council shall comply with the requirements of Article IV Council, Section 5 and 6, and provide the statement of operations and proposed budget to the Unit Owners in accordance with such regulations.

3. All other claims of the Plaintiff forth in Count II {pertaining to Council} of the Plaintiff's Amended Complaint are DISMISSED.

4. Plaintiff's counsel has indicated to this Court that the Plaintiff has placed into escrow the sum of one-hundred twenty-five dollars ($125.00) since July 2005. The Plaintiff is directed to either pay or release such funds to the Condominium Association for deposit into the Association's Operating Account.

Order of Court, 9/11/06, at 1-2. This appeal followed denial of post-trial motions. [2]

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2. Since the Council had been severed from her action against Appellant's declaratory judgment action against Ms. Messmer, and since it was resolved completely by the order in question, this appeal is properly before us. **See Kaiser v. Meinzer**, 414 A. 2d 1080, 1085 (Pa. Super. 1979) (If trial court severs action under Pa. R.C.P. 213(b), "severance of actions effects a splitting of

We review the order in question under the following standards:

> Our standard of review in a declaratory judgment action is narrow. We review the decision of the trial court as we would a decree in equity and set aside factual conclusions only where they are not supported adequate evidence. We give plenary review, however, to the trial court's legal conclusions.

Universal Health Services, Inc. v. Pennsylvania Property and Cas. Ins. Guar. Ass'n, 884 A. 2d 889, 892 (Pa. Super. 2005). "In reviewing a declaratory judgment

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them into one or more independent actions for all purposes, including trial and appellate procedure:). While Appellant neglected to enter judgment following denial of post-trial motions, we will regard that as accomplished. Fanning v. Davne, 795 A. 2d 388 (Pa. Super. 2002). Our Prothonotary did contact counsel regarding the finality of this appeal, and counsel responded by noting that this declaratory action had been severed. Apparently under the belief that this response was sufficient, counsel overlooked the entry of judgment. Hence, we will apply **Fanning. Cf. Johnston the Florist, Inc. v. TEDCO Construction Corp.**, 657 A. 2d 511 (Pa. Super. 1995) (appeal will not be considered if a party deliberately disregards directive to enter judgment).

action, we are limited to determining whether the trial court clearly abused its direction or committed an error of law. **Blanchi v. Bianchi,** 859 A. 2d 511, 515 (Pa. Super. 2004). **Jarl Investments, L. P. v. Fleck, 2007 PA Super 358,15.**

Condominium complexes created after the October 30, 1980 effective date of the Uniform Condominium Act 68 Pa. C.S.§§3101, et seq. (the "present Act") are governed by its provisions while condominium units created before the effective date are controlled by the Unit Property Act, 68 P.S. §§700.101, et seq. (the "former Act"). Under the former Act, applicable herein, dissolution or revocation of condominium unit status can be achieved only by the unanimous consent of all unit owners as well as the holders of all duly-recorded mortgages, judgments, or other items affecting

the units, 68 P.S.§ 700.601. It is clear that one hundred percent of the owners of the unit in the complex under consideration have not consented to termination of the building status as a condominium unit, and Appellant is not entitled to the relief that she request herein.

In this action, Appellant complained that the Council was not operating in accordance with the code. The trial court properly fashioned appropriate injunctive relief as outlined by 68 p.s.§700.35, which provided:

Failure to comply with the code of regulations and with such rules governing the details of the use and operation of the property and the use of the common elements as may be in effect from time to time and with the covenants, conditions and restrictions set forth in the declaration or in deeds of units or in the declaration plan shall be grounds for

an action for the recovery of damages or for injunctive relief, or both, maintainable by an aggrieved unit owner {.}

On appeal, Appellant relies upon **Lyman v. Boonin,** 535 Pa. 397, 635 A. 2d 1029 (1993). In that case, the nonresident owners of a condominium unit instituted an action based upon self-dealing alleging that the complex's governing council had a policy of granting parking spaces to resident owners rather than nonresident owners. There was no remedy for self-dealing provided by the applicable statutes. The Court concluded that even though the statute did not have a remedy, "judicial relief from the actions of condominium governing bodies will be available in those situations where the action

of the governing body is unauthorized, or it is established that the action has been taken fraudulently, in bad faith, or constituted self-dealing". **Id**. At 404, 635 A. 2d at 1032.

Appellant's reliance upon that case is misguided. The former Act clearly provides a remedy in the situation at bar. The allegations in Appellant's complaint were that regular unit owner meetings required by the code were not being conducted and that a budget was not being promulgated by Council. There is a specific provision in the former Act pertaining to those actions, and that provision permits injunctive relief and damages. The trial court herein fashioned injunctive relief commensurate with Appellant's complaints. As Council will now be operating properly, it is

clear that the court correctly ordered remittance of Appellant's condominium assessments to that body. As the trial court neither misapplied the law nor abused its discretion, we affirm based upon the well-reasoned February 28, 2007 opinion of the Honorable Ronald W. Folino.

Order affirmed.

Judgment Entered:

/s/ Eleanor R. Valecko
Deputy Prothonotary

DATE: December 19, 2007

GD05-11900

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

CAROLE L.TAYLOR,	)	GD05-11900
Plaintiff,	)	
MEMORANDUM	)	
Vs.	)	AND ORDER OF
	)	COURT
NEGLEY PARK	)	
HOMEOWNERS	)	
ASSOCIATION COUNCIL)		
an unincorporated	)	
association, and	)	
MARGARET MESSMER	)	
Defendant. and,	)	
MARGARET MESSMER	)	
Defendant.	)	

JUDGE RONALD W. FOLINO

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APPENDIX B

GD05-11900

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA

CAROLE L. TAYLOR,	)	CIVIL DIVISION
	)	GD05-11900
Plaintiff,	)	
Vs.	)	
	)	
NEGLEY PARK	)	
HOMEOWNERS	)	
ASSOCIATION	)	
COUNCIL,	)	
an unincorporated	)	
association, and	)	
MARGARET MESSMER,	)	
Defendant.	)	
and	)	
	)	
MARGARET MESSMER,	)	
Defendant	)	

MEMORANDUM

FOLINO, J.

Negley Park Condominium is a four-unit condominium established under the Unit Property Act, 68 P.S.§§ 700.101-700.805. [1] The Negley Park Homeowners Association Council

1.The Unit Property Act was repealed on July 2,1980, when the legislature enacted the Uniform Condominium Act, 68 Pa.C.S.A.3101 et seq. The Uniform Condominium Act applies only to condominiums created

("The Council") consists of three individuals who own units located at 1402, 1404, and 1408 North Negley Avenue, Margaret Messmer, defendant in this action, owns the unit located at 1402 North Negley Avenue and is the Vice President of the Council. Plaintiff Carole M. Taylor ("Plaintiff") owns the unit located at 1406 North Negley Avenue.

Negley Park is governed by a Code of Regulations ("the Code"). Article IX, Section 6 of the Code reads as follows:

> **Sale or Lease by Unit Owner. Any owner who wishes to sell, lease, or rent his unit shall, at least thirty (30) days prior to accepting any offer to sell, lease, or rent, give to Council written notice of the terms of each offer, which notice shall specify the name and address of the offeror. If, within said thirty (30) day period, time being of the essence, Council or its nominee submits to the Owner an identical or more favorable offer to sell, lease or rent, the selling owner must accept the offer of said Council in preference to the original offer described in the notice. In the event**

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after July 2, 1980, while the Unit Property Act continues to apply to condominiums established prior to July 2, 1980.

Council fails to submit in writing to the selling owner an identical or more favorable offer within thirty (30) days of receipt of notice of the selling owner's offer, time being of the essence, then the selling owner may sell his unit to his original offeror. In any event Council, shall have sole discretion in this matter and no vote or approval of the Unit owner is required. Any holder of a mortgage which comes in possession of a unit pursuant to the remedies provided in the mortgage or any purchaser at a sheriff sale of the Unit or any mortgagee, or its designee, who accepts a deed for the unit in lieu of foreclosure shall be exempt from the provisions of this Section.

(Def. Ex. B.)

On May 5, 2005, Plaintiff learned that Ms. Messmer received an offer for the purchase of her unit for $83,000 from Marija Dunn. At a meeting of the unit owners on May 15, 2005, Plaintiff notified the Council that she would match Ms. Dunn'[s offer to purchase Ms. Messmer's unit. However, neither the council nor Ms. Messmer acknowledged Plaintiff's offer, believing that the above-quoted

provision did not give Plaintiff an option to purchase the unit at matching terms, but rather provided such right only to the Council. The Council expressed at the meting that it had no intention of purchasing the unit.

On May 20, 2005, Plaintiff initiated this action by filing a praecipe for lis pendens and complaint. Plaintiff's amended complaint included two counts: the first, against Ms. Messmer, sought to restrain Ms. Messmer from selling her unit to Ms. Dunn; the second, against the Council, alleged that the Council failed to conduct annual meetings in February 2004, and 2005, and that the Council members' terms exceeded two years, as specified in the Code. Count 2 further alleged that the Council has failed to submit an annual statement of operations, a proposed budget, and other various financial statements and tax returns. Plaintiff sought from this Court a declaration that the current Council was not a duly elected Council, enjoining the Council members from conducting any business on behalf of Negley Park, and dissolving the Homeowners Association and the condominium entity.

By order of court dated November 18, 2005, Judge Wettick ordered that the counts of Plaintiff's amended complaint be severed. Plaintiff proceeded with her claim against the

Council. On September 11, 2006, after a hearing, I found that the Council had not conducted business precisely as required under the Code. However, rather than invoke the severe and complicating remedy of dissolving the Homeowners Association and Council, I ordered the Council to: (1) conduct an annual meeting on February 17, 2007 at 8:00 p.m.; (2) conduct an Election of Council at the annual meeting in accordance with the Code; and (3) provide a statement of operations and proposed budget in advance of the meeting. I dismissed Plaintiff's remaining claims in Count II. Finally, I ordered Plaintiff's counsel to pay or release $125.00 to the Condominium Association from an escrow account. Plaintiff had placed this amount into escrow in July 2005 in lieu of paying the condo fee for that month.

Plaintiff filed a motion for post-trial relief, which I denied on December 1, 2006 [2]

I.

Plaintiff first argues that this Court had

2.In the same order, I also ruled on Plaintiff's preliminary objects to Ms. Messmer's answer, new matter, and counterclaim. However, as Plaintiff's claim against Ms.Messmer is still being litigated in this Court this memorandum will address only the issues raised in Plaintiff's motion for post-trial relief.

the authority to dissolve the condominium entity, and that based on the evidence presented, this Court should have dissolved Negley Park's condominium status.

The Declaration of Condominium Ownership of Negley Park contains the following provision regarding the termination of the condominium entity:

13. **TERMINATION**: The Condominium may be terminated in the following manner:

(a) By Statue:: As provided by the Unit Property Act.

(Def. Ex. A).

The Unit Property Act includes the following Provisions:

§ 700.305 Noncompliance with code of regulations, administrative provisions, covenants, etc.

Failure to comply with the code of regulations and with such rules governing the details of the use and operation of the property and the use of the common elements as may be in effect from time to time and with the covenants, conditions and restrictions set forth in the declaration or in the deeds of units or

in the declaration plan shall be grounds for an action for the recovery of damages or for injunctive relief, or both, maintainable by any member of the council on behalf of the council or the unit owners or, in a proper case by, [sic] an aggrieved unit owner or by any person who holds a mortgage lien upon a unit and is aggrieved by any such noncompliance.

§ 700.601 Removal

Property may be removed from the provisions of this act by a revocation expressing the intention to remove property previously made subject to the provisions of this act. No such revocation shall be effective unless the same is executed by all of the unit owners and by the holders of all mortgages, judgments or other liens affecting the units and is duly recorded.

68 P.S. §§ 700.305, 700.601

The Negley Park Declarations provide that the only means of terminating the condominium is pursuant to the Unit Property Act, and section 700.601 of the Unit Property Act provides that property may be removed from condominium status only upon the unanimous consent of all unit owners.

Therefore, it is clear that nothing in the Unit Property Act, or in the Negley Park Declarations, provides for the remedy Plaintiff is seeking, namely the judicial termination of the Negley Park condominium where Plaintiff is the only unit owner seeking dissolution. Moreover, section 700.305 of the Unit Property Act provides that the Council's failure to comply with the Code provides Plaintiff with grounds for an action for the recovery of damages, injunctive relief, or both. Nothing in the Unit Property Act provides even the slightest suggestion that a Court may dissolve a condominium entity based upon the malfeasance or nonfeasance of the condominium's governing body.

Moreover, even if a court has the authority to dissolve a condominium under the Unit Property Act, it is not appropriate to do so in this case. If I were to dissolve the condominium, and thereby order that these units were to be considered separate residences rather than condominium units, there still would remain common areas (roofs, sidewalks, landscaping, etc.) to be repaired and maintained. The unit owners still would need somehow to resolve collectively those common issues. The condominium framework allows such common issues to be addressed in an orderly way. In addition, a wholesale

dissolution of the condominium could have complicating consequences on any mortgage liens.

Plaintiff cites ***Lyman v. Boonin*** for the proposition that "judicial relief from the actions of condominium governing bodies will be available in those situations where the action of the governing body is unauthorized, or it is established that the action has been taken fraudulently, in bad faith, or constituted self-dealing". 535 Pa. 397, 404, 635, A.2d 1029, 1032 (1993). However, ***Lyman*** provides no help in resolving the case *sub judice*. In ***Lyman***, a condominium's Owners' Association adopted a parking policy for the allocation of on-site parking, due to a severe shortage of on-site parking (the condominium contained 776 residential units, but only 325 parking spaces). Three unit owners who were not allotted parking spaces initiated an action, claiming that the policy was impermissible because unit owners who were not assigned parking spaces and were not being compensated by unit owners who were assigned parking spaces. Such a policy, the plaintiffs argued, expropriated from their percentage interest in a common element.

The issue in ***Lyman*** was not whether the Owners' Association had the authority to adopt a policy with respect to parking spaces—the condominium's code of regulations clearly provided that The Council shall have full authority to operate, manage, and use the Parking Garage for the benefit of the Unit Owners.*Id.* at 405, 635 A.2d at 1032. Rather, the issue in *Lyman* centered around whether the specific policy adopted by the Owners' Association discriminated against certain residents (those who did not have parking spaces) for the exclusive benefit of other residents (those owners who were assigned spots).

This is a completely different issue than the one before this Court. ***Lyman*** pertains only to instances where a condominium's governing body acts fraudulently or in bad faith, in ways not addressed by either the Unit Property Act.3 or the Uniform Condominium Act. 3

3.Although Plaintiff also suggests that the Council engaged in self-dealing (by virtue of the fact that Ms. Messmer was both an interested party in the sale of her condo and the Vice President of the Council), ***Lyman*** made clear that "where a governing body's action benefits its own member it is not of itself dipositive of a claim of self-dealing. To find self-dealing, there must be demonstration of a benefit that was gained at the

should be in this case, Plaintiff has merely alleged that the Council has failed to satisfy the requirements of the Code. As discussed *supra*, the Unit Property Act does address this situation: Plaintiff may proceed with an action for damages or injunctive relief. There is no authority—nor is there any need—for this Court to fashion its own remedy in the form of termination of the condominium entity. Such severe action, as stated in the Negley Park Declarations and the Unit Property Act, may only be brought about if all the unit owners consent. Furthermore, termination is not needed when less drastic remedies—such as ordering the Board to conduct a meeting, hold elections, and provide a statement of operations and proposed budget—would fully rectify the Board's alleged wrongs.

II.

Plaintiff also takes issue with this Court's order requiring Plaintiff's counsel to pay $125.00 to Negley Park out of an escrow account. Plaintiff raises two arguments: (1) the Council did not raise a claim for the payment of money; and (2) the Council does not exist.

While it is true that the Council did not raise a claim for the payment of money, the

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expense of imposing an impermissible burden on other owners. *Lyman*, 535 Pa. at 404, 635 A.2d at 1032 n. 7. Plaintiff failed to make such a showing during the hearing.

record clearly reflected that Plaintiff had placed the July 2005 condominium fee in escrow pending the resolution of this case. (Tr. at 17-18.) Plaintiff withheld the payment of these funds because, as she stated: I don't believe that there is an association, and so, therefore, I don't believe there should be any condo fees. (Tr. at 46.) However, the record clearly reflects that the Homeowners Association covered the costs of insurance, maintenance, etc. Although the Council members had not been elected within the last two years, it cannot be said that such a defect means that the Council or Homeowners Association does not exist.

A court sitting equity has the inherent power to shape and render a decree which accords with the equities in the case. *Sack v. Feinman*, 489 Pa. 152, 413 A.2d 1059 (Pa. 1980). Plaintiff has not put forth any sound reason why she would not need to pay the July 2005 condo fee. Accordingly, this Court was within its authority to order Plaintiff's counsel to pay this amount to the Council.

Therefore, this Court's order denying Plaintiff's motion for post-trial relief should be affirmed.

DATE FILED February 28, 2006

IN THE SUPREME COURT OF PENNSYLVANIA WESTERN DISTRICT

CAROLE L. TAYLOR

NO.41WAL 2008

Petitioner

v.

NEGLEY PARK HOMEOWNERS ASSOCIATION COUNCIL, AN UNINCORPORATED ASSOCIATION, AND MARGARET MESSMER

Respondents

ORDER

PER CURIAM

AND NOW, this 25th day of August 2008, the Application for Reconsideration of Petition for Allowance of Appeal is DENIED.

Mr. Justice McCaffery did not participate in the consideration or decision of this matter.

A True Copy Patricia Nicola
As of: August 25, 2008
Attest: Patricia Nicola
Chief Clerk
Supreme Court of Pennsylvania

APPENDIX C

IN THE SUPREME COURT OF PENSYLVANIA WESTERN DISTRICT

CAROLE L. TAYLOR, **NO.41WAL 2008**

Petitioner, Application for Reconsideration of Petition for Allowance of Appeal

v,

NEGLEYPARKHOMEOWNERS ASSOCIATION COUNNCIL, AN UNINCORPORATED ASSOCIATION, AND MARGARET MESSMER,
Respondents.

ORDER

PER CURIAM

AND NOW, this 26th day of June 2008, the Petition for Allowance of Appeal is **DENIED.**

Mr. Justice McCaffery did not participate in the consideration or decision of this matter.

A True Copy Patricia Nicola
As of: August 25, 2008
Attest: Patricia Nicola
Chief Clerk
Supreme Court of Pennsylvania

APPENDIX D

CODE OF REGULATIONS
OF
NEGLEY PARK

APPENDIX E

ARTICLE I.

GENERAL PROVISIONS

SECTION 1. **Administration.** The administration of the Property of the Condominium known as Negley Park shall be governed by this Code of Regulations (hereinafter referred to as the Code).

SECTION 2. **Property.** The "Property" means and includes the land and building, common elements and other improvements now or hereafter erected thereon, all owned in fee simple, and all easements, rights and appurtenances belonging thereto, which have been submitted to the condominium form of ownership in accordance with the Unit Property Act (hereinafter referred to as the "Act") of the Laws of the Commonwealth of Pennsylvania by virtue of the Declaration of Condominium (hereinafter referred to as the "Declaration") and the Declaration Plans (hereinafter referred to as "Declaration Plans") of Negley Park, recorded in the Recorder of Deeds Office of Allegheny County, Commonwealth of Pennsylvania. The Declaration is recorded in Deed Book Volume ____, page _____. The Declaration Plans are recorded in Plan Book Volume _____, page ____.

SECTION 3. **Persons Bound.** All present and future owners, mortgagees,

tenants and occupants of Units and/or the Common Elements, and their respective agents and employees, or any other person that might occupy or use the Property, or any part thereof, in any manner, are subject to and bound by the provisions of the Declaration, Declaration Plans, this Code, lawful rules and regulations promulgated from time to time by the Council governing the details of the use and operation of the Property, including the Units and the Common Elements. The mere acquisition or rental of any of the Units of the Property or the mere act of occupancy of any said Units shall automatically constitute an acceptance and ratification of the Declaration, and the Rules and Regulations adopted pursuant thereto (hereinafter referred to as the "Condominium Documents"), and of this Code, and shall indicate the intention to be legally bound to the provisions of such documents.

SECTION 4. **Definitions.** The terms used herein shall have the same meanings as provided in the Unit Property Act and in said Condominium Documents.

SECTION 5. **Office.** The Council shall maintain an office at 280 Freeport Road, Pittsburgh, Pennsylvania 15238 or at such other place within the Pittsburgh area as Council may determine.

ARTICLE II.

OWNERS MEETINGS: VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES

SECTION 1. **Voting.** At any meeting of Unit owners, each Unit owner shall be entitled to the same number of votes and the percentage of ownership in the Common Elements assigned to his Unit in the Declaration and any amendments thereto.

SECTION 2. **Majority of Owners.** As used in this Code the term "majority of owners" shall mean the owners of more than fifty (50%) percent in the aggregate in interest of the undivided ownership of the Common Elements as specified in the Declaration.

SECTION 3. **Quorum.** Except as otherwise provided in this Code the presence in person or by proxy of a "majority of owners" as defined in Section 2 of this Article shall constitute a quorum, and the act of more than fifty (50%) percent of the votes entitled to be cast at a meeting at which a quorum is present shall be the act of and binding upon all Unit owners for all purposes except where otherwise provided under the Act, the Declaration, or this Code.

SECTION 4. **Proxies.** Votes may be cast in person or by written proxy. Proxies

must be filed with the Council Secretary before the appointed time of each meeting. A proxy shall be revocable at any time only upon written notice to the Secretary, and in no event shall a proxy endure for longer than twenty-two (22) months. A proxy shall also become void when the Council has received written notice of the death or judicially declared incompetency of the grantor of such proxy.

SECTION 5. **Multiple Ownership.** If a condominium Unit is owned by one person, his right to vote shall be established by the recorded title to the Unit. If a condominium Unit is owned by more than one person, the person entitled to cast the vote for the Unit shall be designated in a Certificate signed by all of the recorded owners of the Unit and filed with the Secretary to the Council. If a condominium Unit is owned by a Corporation, the officer or employee thereof entitled to cast the vote of the Unit for the corporation shall be designated in a certificate for this purpose, signed by the president or vice president and attested to by the secretary or assistant secretary of the corporation, and filed with the Secretary of the Council. The person designated in these Certificates who is entitled to cast the vote for a Unit shall be known as the "Voting Member." If such a certificate is not on file with the Secretary of Council for a Unit owned by more than one person or by a corporation, the vote of the Unit concerned

shall not be considered in determining the requirement for a quorum, or for any purpose requiring the approval of a person entitled to cast the vote for the Unit, except if said Unit is owned by a husband and wife. Such Certificates shall be valid until revoked in writing by any owner of the Unit, or until superseded by a subsequent Certificate or until a change in the ownership of the Unit concerned. If a condominium Unit is owned by a husband and wife, the following three provisions are applicable thereto:

(a) They may, but they shall not be required to, designate a voting member by a Certificate signed by both and delivered to the Council Secretary as provided above.

(b) If they do not so designate a voting member, and if both are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting. (As previously provided, the vote of a Unit is not divisible.)

(c) Where they do not designate a voting member, and only one is present at a meeting, the person present may cast the Unit vote, just as though he or she owned the Unit individually and without

establishing the concurrence of the absent person.

SECTION 6. **Fiduciaries.** If a Unit is held in a fiduciary capacity, the fiduciary and not the beneficiary shall be entitled to exercise the voting rights appurtenant to such Unit.

ARTICLE III.

ADMINISTRATION

SECTION 1. **Responsibilities of Unit Owners.** The owners of the Units will have such rights, obligations and responsibilities as are set forth in the Declaration, this Code, or by operation of the Act.

SECTION 2. **Place of Meetings.** Meetings of the Unit owners shall be held at the principal office of the Property or such other suitable place convenient to the owners as may be designated by the Council.

SECTION 3. **Annual Meetings.** Beginning with the year 1979, the annual meeting of the Unit Owners shall be held on the third Monday of February in each year at 8:00 o'clock p.m. if not a legal holiday, and if a legal holiday, then on the next secular day at the same hour. At such meetings a Council shall be elected by ballot of the owners in accordance with requirements of Article IV hereof. The owners may also transact such other business as may properly come before

them.

SECTION 4. **Special Meetings.** It shall be the duty of the President of the Council to call a special meeting of the owners as directed by resolution of the Council or upon a petition signed by a majority of the owners and having been presented to the Council Secretary; provided that no special meeting shall be called until the first annual meeting has been held in 1979. Where a special meeting has been properly requested, it shall be the duty of the Secretary to call the special meeting not less than ten (10) days nor more than fifteen (15) days after the receipt of the request. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by a consent of three-fourths of the owners present, either in person or by proxy.

SECTION 5. **Notice of Meetings.** It shall be the duty of the Secretary to deliver or cause to be delivered a notice of each annual or special meeting, sating the purpose thereof as well as the time and place where it is to be held, to each owner of record, at least ten (10) days prior to such meeting. Notices to Unit owners shall be addressed to the Unit of each Unit owners or to such other address as a Unit owner may from time to time specify in writing to the Secretary. Delivery shall be deemed to

have been made when the notice is placed in the Unit owner's mailbox by hand or when the notice has been duly deposited in the United States mail, postage prepaid. Notice may be waived in a writing given either before or after a meeting. Notices to co-owners shall be addressed to all, but need be sent only to the Unit or to one other address designated by them in writing to the Secretary. Attendance of a Unit owner, either in person or by proxy, at any meeting, shall constitute a waiver of notice of such meeting, except where a Unit owner attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was allegedly not lawfully called or convened.

SECTION 6. **Adjourned Meetings.** If a quorum is not present at any meeting, the Unit owners present, either in person or by proxy, may, by majority vote, reschedule the meeting for a later date and notice thereof shall be given to all Unit owners in accordance with the provisions of Article III, Section 5 hereinabove. If no quorum is present at such second meeting, the notice procedure shall be repeated if the Unit owners present, either in person or by proxy, by majority vote, decide to call a third meeting. A quorum at such third meeting shall consist of whatever number of Unit owners is present.

SECTION 7. **Control of Meetings.** The President, or in his absence, the Vice

President, shall preside at all meetings.

SECTION 8. **Order of Business.** The order of business at all annual meetings of the Unit owners shall, unless otherwise determined by action of the Unit owners present or represented, be as follows:

Roll call;
Proof of notice of meeting or waiver of notice;
Reading of minutes of preceding meeting;
Report of Officers;
Reports of Committees;
Election of Inspectors of Election;
Election of Council;
Unfinished business;
New business.

ARTICLE IV.

COUNCIL

SECTION 1. **Number and Qualification**. The Council shall consist of three (3) natural individuals who are residents of Pennsylvania, who need not be Unit owners and who shall manage the business, operation, and affairs of the Property on behalf of the Unit owners and in compliance with the provisions of the Declaration, this Code and the Unit Property Act. The first members of Council, who shall serve until the first annual meeting, are named in the Declaration. The

Council will consist of a President, Vice President and Secretary-Treasurer.

SECTION 2. **Powers and Duties.** The Council shall have the powers and duties necessary for the administration of the affairs of the Unit owners and may do all such acts and things as are not by law or by this Code or Declaration directed to be exercised and done by the Unit owners. Subject to the limitations and restrictions contained in the Act, the Condominium Documents and this Code, these duties shall specifically include, but shall not be limited to, the following:

(1) The exercise of all powers and the performance of duties specifically set forth in the Condominium Documents, in this Code and in the Act.

(2) The assessment and collection of funds from Unit owners for common expenses and the payment of such common expenses.

(3) The maintenance, repair and replacement of the Common Elements.

(4) The promulgation, distribution and enforcement of Rules and Regulations governing the details of the use and operation of the

Property and the use of the Common Elements, subject to the right of a majority of the Unit owners to change any such rules.

Subject to the limitations and restrictions contained in the Act, the Declaration and this Code, the powers of Council shall specifically include, but shall not be limited to, the following:

(1) The power to engage and dismiss employees; appoint and dismiss accountants, agents and Attorneys; define the duties and affix the compensation of such employees, accountants, agents and attorneys; designate and enter into a Trust Agreement with three (3) or more Council members to act as trustees on behalf of Council for the purpose of holding title to any Units purchased by Council in trust for the Unit owners; and enter into agreements, contracts, deeds, leases, mortgages and other written instruments or documents in the name of the Council or in the name of the trustees appointed by Council pursuant to this Section, and authorize the execution, delivery and, if appropriate, the recording thereof. The Council shall have such incidental powers as may be

appropriate to the performance of its duties as set forth in the Declaration, this Code and the Act.

(2) The power to further improve, repair, replace and refurnish the Common Elements, real and personal and to purchase items of furniture, furnishings, fixtures and equipment for the same.

(3) The power to designate one or more committees, which to the extent provided in the resolution designating said committee, shall have the powers of the Council in the management of the business and affairs of the Condominium. Such committee shall consist of the number of persons specified in said resolution. The committee or committees shall have such name or names as may be determined from time to time by the Council, and to the extent required by Council, said committee shall keep minutes of their proceedings and report the same to the Council.

(4) The Council may hire one or more persons or business entities (hereinafter referred to as the "Managing Agent") to manage the Property. The Managing Agent

shall be subject to the control of the Council at all times. The Council shall have the power to fix the Managing Agent's compensation (such compensation to be assessed as a common expense), and to set forth the details of the Managing Agent's powers and duties including, but not limited to, the power of the Managing Agent to engage employees and agents, who may or may not be independent contractors, and to define or limit the liability of the Managing Agent, if any. Such delegation may (but need not) be sufficiently broad as to encompass the full range of powers and duties of the Council including, but not limited to, the power to pen and maintain bank accounts and write checks on behalf of the council as directed by the Council. The Council shall not be liable for the Managing Agent's wrongful exercise of any power or duty. Nothing contained in this Code of Regulations shall be construed to prohibit the employment of any Unit owners, or Council member in any capacity whatsoever.

(4) The Council shall submit at each annual meeting of the Unit owners a statement of the operations of

NEGLEY PARK during the preceding year, together with a report of its general financial condition. Reports shall be sent to each Unit owner within sixty (60) days following the close of the preceding fiscal year, along with a copy to the Mortgagee of any unit which has requested the same in writing; the said mortgagees can also examine the books and records of the Condominium.

(6) The Council shall make or cause to be made a proposed budget for the ensuing year, a copy of which shall be mailed to each Unit owner at least ten (10) days prior to the Unit owners annual meeting.

SECTION 3. **First Council Members.** The first Council members are those named in the Declaration and each shall hold office until the annual meeting of the Unit owners in the year 1979 or until his successor shall have been elected and participated in his first Council meeting.

SECTION 4. **Election and Term of Office.** At the annual meeting of the Unit owners in the year 1979, the term of office of all Council members elected shall be for two (2) years. At the expiration of the term of office of each respective Council member, his

successor shall be elected to serve a term of two (2) years. The Council members shall hold office until their successors have been elected and hold their first Council meeting.

In all elections of Council members, each Unit owner shall have the right, in person or by proxy, to multiply the number of votes to which he may be entitled by the number of Council members to be elected and he may cast the whole number of said votes for one candidate or he may distribute them among any two or more candidates.

SECTION 5. **Vacancies**. Vacancies in the Council caused by any reason other than the removal of a Council Member by a vote of the Unit owners shall be filled by vote of the majority of the remaining Council Members, even though they may constitute less than a quorum; and each person so elected shall be a Council Member until a successor is elected at the next annual meeting of the Unit owners.

SECTION 6. **Removal of Council Members.** At any special meeting duly called, any one or more of the Council Members may be removed with or without cause by a majority vote of the Unit owners and a successor may then and there be elected to fill the vacancy thus created. Any Council Member whose removal has been proposed by the Unit owners shall be given an opportunity to be heard at the meeting.

SECTION 7. **Organization Meeting.** The first meeting of the newly elected Council shall be held within ten (10) days of election at such place as shall be fixed by the Council Members at the meeting at which such Council Members were elected, and no notice shall be necessary to the newly elected Council Members in order legally to constitute such meeting, providing a majority of the whole Council shall be present.

SECTION 8. **Regular Meetings.** Regular meetings of the Council may be held at such time and place as shall be determined, from time to time, by a majority of the Council Members, but at least two (2) such meetings shall be held during each twelve (12) month period following the previous annual meeting of Unit owners. Notice of regular meetings of the Council shall be given to each Council Member, personally or by mail, telephone or telegraph, at least ten (10) days prior to the day named for such meeting.

SECTION 9. **Special Meetings.** Special meetings of the Council may be called by the President on one (1) day notice to each Council member, given personally or by mail, telephone or telegraph, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Council shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2)

Council Members.

SECTION 10. **Bond.** The Council shall require that all officers and employees handling its funds shall furnish fidelity bonds in such amounts as Council shall determine. The premium on any such bond will be a common expense.

SECTION 11. **Waiver of Notice.** Before or at any meeting of the Council, any Council Member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Council Member at any meeting of the Council shall be a waiver of notice by him of the time and place thereof. If all the Council Members are present at any meeting of the Council, no notice shall be required and any business may be transacted at such meeting

SECTION 12. **Action by Written Consent.** Any action which may be taken at a meeting of the Council may be taken without a meeting, if a consent in writing, setting for the action so taken shall be signed by all of the Council Members who would be entitled to vote at a meeting for such purpose and shall be filed with the Secretary.

SECTION 13. **Council Quorum.** At all meetings of the Council, a majority of the Council Members shall constitute a quorum

for the transaction of business, and the acts of the majority of the Council Members present at a meeting at which a quorum is present shall be the acts of the Council. If, at any meeting of the council, there be less than a quorum present, the majority of those present may adjourn or cancel the meeting. At any adjourned meeting, any business which might have been transacted at the meeting originally called may be transacted without further notice.

SECTION 14. **Effect of Presence.** Any member of Council present at any meeting shall be deemed to have assented to any action taken at such meeting unless his dissent is entered on the minutes or unless his written dissent is filed with the Secretary at or immediately following the adjournment thereof, provided that no member may dissent from any action for which he voted at the meeting.

SECTION 15. **Communications Equipment.** One or more members of Council may participate in and be counted for quorum purposes at any meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other.

SECTION 16. **No Compensation.** No member of Council shall be compensated for

acting as such.

ARTICLE V.

OFFICERS

SECTION 1. **Designation.** The principal officers of the Council shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by and from the Council. The Council Members may appoint an assistant Treasurer and an assistant Secretary and such other officers as in their judgment may be necessary.

SECTION 2. **Election of Officers.** The officers of the Council shall be elected annually by the Council at the organization meeting of each new Council and shall hold office at the pleasure of the Council.

SECTION 3. **Removal of Officers.** Upon an affirmative vote of a majority of the members of the Council, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Council, or at any special meeting of the Council called for such purpose. Vacancies shall be filled by similar election.

SECTION 4. **President.** The President shall be the chief executive officer of the Council. He shall preside at all meeting of the Unit owners and of the Council. He shall

have all of the general powers and duties which are usually vested in the office of president of any association, including but not limited to the power to appoint committees from among the owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Unit owners.

SECTION 5. **Vice President.** The vice president shall in the absence or disability of the president, perform the duties and exercise the powers of the president. He shall also perform such other duties as shall from time to time be delegated to him by the Council.

SECTION 6. **Secretary-Treasurer.** The secretary-treasurer shall keep the minutes of all meetings of the Unit owners; he or she shall have charge of such of the books and papers as the Council may direct, all of which shall, at reasonable times and for reasonable purposes, be open to the examination of any Unit owner, or Council member, upon application at the office of NEGLEY PARK during business hours. The secretary-treasurer shall have custody of NEGLEY PARK funds and securities and shall cause full and accurate accounts of receipts and disbursements to be kept in books belonging to NEGLEY PARK. He shall deposit all monies and other valuable effects in the name, and to the credit of NEGLEY PARK in such depositaries as may from time to time

be designated by the Council.

SECTION 7. **Compensation.** No person shall receive any compensation for acting as an officer of NEGLEY PARK but may receive compensation for services rendered to or for NEGLEY PARK in any other capacity.

ARTICLE VI.

COMMON ELEMENTS AND COMMON EXPENSES

SECTION 1. **Definitions.** "Common Elements" shall have the meaning designated in the Declaration. The common expenses shall mean and include, but shall not be limited to:

(1) Expenses of administration, maintenance, repair, and replacement of the Common Elements; and

(2) Expenses agreed upon as common by all the Unit owners; and

(3) Expenses declared common by provisions of the Act, or by the Declaration or this Code; and

(5) Expenses of Council in managing

the business, operation and affairs of the Property and in otherwise exercising its powers and duties hereunder and under the Unit Property Act and Declaration.

More particularly, the term "Common Expenses" includes by way of illustration and not of limitation:

(1) The costs of the operation of the Property and of the cost of the maintenance, repairs, additions, alterations, improvements and replacements called for by the Council and repairs and restoration in excess of applicable insurance proceeds and amounts necessary to discharge any mechanics liens arising as a result thereof;

(2) The compensation of employees and agents of the Condominium or Council, including without limitation counsel and independent accounts, and the fees and expenses of the Insurance Trustee referred to herein;

(3) The premiums on all policies of insurance and fidelity bonds obtained by the Council;

(4) The liabilities of the Condominium

or Council under contracts or resulting from or out of the settlement of litigation;

(5) Such amounts as the Council deems proper for working capital, general operating reserves, and reserves for replacements and contingencies, and to make up any uncollectible delinquencies in the payment of assessments for Common Expenses;

(6) Amounts expended by the Council to purchase, hold, repair or restore, sell, convey, mortgage (including interest payable under any mortgage), lease or otherwise deal in Units acquired and held pursuant to this Code or the Declaration and to pay the assessments for Common Expenses and real estate taxes, municipal claims and charges assessed against the Unit and any other charges and expenses thereof while the Council is in title thereto;

(7) The cost of electricity and gas consumed on, and water and sewer rents charged to the Units and the Common Elements except to the extent separately billed to Unit owners;

(8) Uncollectible assessments for

Common Expenses; and the costs of suit to collect Common Expenses.

SECTION 2. **Assessment of Common Expenses:**

(1) **Proration.** The Council shall prorate all costs involved in Section 1 above, among all the Unit owners in proportion to their ownership in the common elements, provided, however, that if any cost is occassioned by the negligence of any Unit owner or owners, said costs shall be borne by said Unit owner or owners.

(2) **Charges.** The total amount of the charges required for each calendar year shall be estimated by the Council at least one (1) month prior to the beginning of each calendar year. Such estimate may include an amount for unanticipated or underestimated costs, charges and expenses and deficits incurred in any prior year or years, and may further include amounts to be accumulated in any reserve funds for expenditures which may be required in future years for any other than ordinary current maintenance, repairs, costs and expenses. The first such charge may be estimated

and made for less than a full year, and in such event the Maintenance Charge for such period shall be payable in equal monthly installments for the remainder of such calendar year, beginning on the first day of the month immediately following the determination of such estimate by the Council. Thereafter, each annual Maintenance Charge shall be payable in twelve (12) equal monthly installments beginning on the first day of January of each calendar year.

The annual budget shall be sent to Unit Owners at least ten (10) days prior to the annual meeting, at which time the budget shall be approved in the same manner as other business brought before the meeting. After the annual budget has been approved by the required vote, the Council shall cause a statement to be sent to each Unit owner; which statement shall reflect the total amount of the annual maintenance budget thus approved, the common element percentage obligation therefore attaching to each respective unit and the corresponding monthly payments to be made by each Unit owner. Each Unit owner shall then be required to

make his respective Monthly Maintenance Payment to the Council or its designee without further billing or request therefore. Any charge assessed against a Unit may be enforced by suit by the Council acting on behalf of the Unit owners in an action in t; provided, that each suit when filed shall refer to the Unit Property Act, Act of July 3, 1963, P.L. 196, and to the Unit against which the assessment is made and the owner thereof and shall be indexed by the **assumpsit Prothonotary as lis pendens**. Any judgment against a unit and its owners shall be enforceable in the same manner as is otherwise provided by law.

Until the Council shall otherwise determine, the monthly charge to be paid by each Unit owner shall be in accordance with the budget attached.

(3) **Additional Assessments.** In the event that the Council decides that additional monies are required in addition to those set forth in the annual budget, the Council shall give the Unit owners at least thirty (30) days written notice of the total monies required and allocate

amounts among the Unit owners together with time for payment of said proportionate amounts which may be at one time or in installments, as the Council decides, provided, however, that if Unit owners representing seventy-five (75%) percent of the votes of NEGLEY PARK object in writing to said additional assessments within fifteen (15) days after mailing of such notice, the Council shall call a special meeting of the Unit owners for the purpose of obtaining approval of said assessments, at which meeting the assessments of the Council must receive the same affirmative vote as in the case of the annual budget.

(4) **Surplus Funds.** Any surplus funds remaining at the end of the calendar year may, at the discretion of and at the time determined by the Council, be refunded in whole or in part to the then Unit owners proportionately according to the common element percentages attaching to each unit, or may be applied in the said proportion as a result to future Maintenance Charges to become payable by each Unit owner for each dwelling unit or may be deposited to any reserve fund established by Council. In the event that any

refunds or credits against future Maintenance Charges are to be made or given, the amount thereof to which any such Unit owner shall be entitled may be applied toward the payment of any indebtedness of such Unit owner to Council.

(5) **Insurance.** The Council shall maintain fire and other hazard and other liability insurance on the entire property and any other insurance as provided for in the Declaration period. The Council shall take charge of disbursement of fire and other hazard insurance and other proceeds for repair or reconstruction of any portion of the property; except, however, that any first mortgagee shall have the right of participation in the use or disbursement of any insurance proceeds.

(5) **Notice to Mortgagee.** The holder of a first mortgage on any Unit shall be entitled to give written notice of the existence of its mortgage to the Council and shall include in such notice an address to which all notices and correspondences may be sent. Whether or not a holder of a first mortgage has given such notice to Council, it shall be entitled to

written notice from the Council of any default by its mortgagor in the performance of such mortgagor's obligations under the Condominium regime which is not cured in thirty days.

(7) **Personal Property**. Title to any personal property from time to time held for the joint use and enjoyment of all Unit owners, whether situate in the Common Elements or elsewhere, shall be vested in all Unit owners in accordance with their percentage interests and Council shall have the power and duty on their behalf to purchase or otherwise acquire, hold the lease, mortgage, sell or otherwise deal in, and to insure, repair or replace the same, as Council shall from time to time determine.

ARTICLE VII

OBLIGATIONS OF OWNERS

SECTION 1. Restrictions:

(a) No unit shall be used for any other purpose than as a private dwelling. No member nor a lessee of any member shall permit or suffer anything to be done or kept upon the Property which will increase the

rate of insurance on the Property or on the contents thereof, or which will obstruct or interfere with the rights of other occupants or annoy them by unreasonable noises or otherwise, not will he commit or permit any nuisance or commit to suffer any immoral or illegal act to be committed anywhere in or upon the property.

(b) Each member shall maintain his own unit in good condition, order, and repair at his own expense. No unit owner shall display, hang, store, or use any signs or articles whatsoever on his balcony or outside his unit other than such draperies, curtains or shades as may be permitted in accordance with the rules and regulations established by the Council. No member may paint, decorate, or otherwise alter or modify in any way the outside of his unit, or install outside of his unit any canopy, awning, covering, radio or television antenna, or structure or addition of any kind whatsoever without the prior written consent of the Council.

(c) Trash, garbage, and other waste shall be kept only in sanitary containers and shall be disposed of in such manner as may be

prescribed from time to time in rules and regulations established by the Council. No articles of personal property belonging to any unit owners shall be stored in any portion of the Common Elements designated for use by any other Unit owner.

(d) No member shall overload the electrical wiring in the building or operate any machinery, appliance, accessories, or equipment in such a manner as to cause, in the judgment of the Council any unreasonable disturbance, or make any alterations to or connections with the heating or air-conditioning or plumbing systems without the prior written consent of the Council.

SECTION 2. **Internal Changes to Units.** A Unit owner shall not make structural modifications or alterations in his Unit or installations located therein without previously submitting plans and specifications therefore to Council and securing the Council's written approval, through the Management Agent, if any, or through a President, if no Management Agent is employed. In no event shall a Unit owner do any work which would jeopardize the soundness or safety of the Property or impair any easement or hereditament without the unanimous consent

of the Unit owners affected thereby.

SECTION 3. **Right of Entry:**

(1) The Council and the duly authorized agents of the Council shall have an easement to enter any Unit to maintain, repair or replace the Common Elements, as well as to make repairs to Units if such repairs are reasonably necessary for public safety or to prevent damage to other Units or to the Common Elements.

(2) An owner shall permit other owners, or their representatives, when so required, to enter his Unit for the purpose of making installations, alterations or repairs to the plumbing, mechanical or electrical services, provided that requests for entry are made in advance and that such entry is at a time convenient to the owner. In case of an emergency, such right of entry shall be immediate.

ARTICLE VIII.

AMENDMENTS TO CODE OF REGULATIONS

SECTION 1. **Adoption.** The first

members of Council shall establish and adopt the original Code of Regulations.

SECTION 2. **Amendment.** This Code may be amended by the Unit owners in a duly constituted meeting for such purpose and no amendment shall take effect unless approved by owners representing at least a majority of the votes entitled to be cast at that meeting.

SECTION 3. **Conflict.** In the event of a conflict between the provisions of this Code and the Declaration, the latter shall prevail.

ARTICLE IX.

MISCELLANEOUS

SECTION 1. **Eminent Domain.** Whenever all or part of the Common Elements shall be taken, injured or destroyed by eminent domain, each Unit owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, but in any proceeding for the determination of damages, such damages shall be determined for such taking, injury or destruction as a whole and not for each Unit owner's interest therein. After such determination each Unit owner shall be entitled to a share in the damages in the same proportion as his individual interest in the Common Elements.

SECTION 2. **Compliance with Code**

of Regulations, Administrative Provisions, Covenants, etc. Each Unit owner shall comply with this Code and with such Rules and Regulations governing the details of the use and operation of the Property and the use of the Common Elements as may be in effect from time to time, and with the covenants, conditions and restrictions set forth in the Declaration or in the deed to his Unit or in the Declaration Plan.

SECTION 3. **Noncompliance with Code of Regulations, Administrative Provisions, Covenants, etc.** Failure to comply with this Code of Regulations and with such Rules and Regulations governing the details of the use and operation of the Property and the use of the Common Elements as may be in effect from time to time and with the covenants, conditions and restrictions set forth in the Declaration or in deeds of Units or in the Declaration Plan shall be grounds for an action for the recovery of damages or for injunctive relief, or both, maintainable by any member of the Council on behalf of the Council or the Unit owners, or in a proper case, by an aggrieved Unit owner or by any person who holds a mortgage lien upon a Unit and is aggrieved by any such noncompliance.

SECTION 4. **Limitation of Liability.** Notwithstanding the duty of Council to maintain and repair parts of the Condominium Property, Council shall not be

liable for injury or damage caused by the failure of Council to maintain or repair the same, except to the extent of the proceeds of insurance carried by the Council.

SECTION 5. **Audits.** Any Unit owner may at any time, during normal business hours and upon five (5) days prior written notice to the Managing Agent, at his own expense, cause an audit or inspection to be made of the books and records of the Managing Agent as they pertain to the Condominium.

SECTION 6. **Sale or Lease by Unit Owner.** Any owner who wishes to sell, lease, or rent his unit shall, at least thirty (30) days prior to accepting any offer to sell, lease, or rent, give to Council written notice of the terms of such offer, which notice shall specify the name and address of the offeror. If, within said thirty (30) day period, time being of the essence, Council or its nominee submits to the Owner an identical or more favorable offer to sell, lease or rent, the selling owner must accept the offer of said Council in preference to the original offer described in the notice. In the event Council fails to submit in writing to the selling owner an identical or more favorable offer within thirty (30) days of receipt of notice of the selling owner's offer, time being of the essence, then the selling owner may sell his unit to his original offeror. In any event Council, shall have sole

discretion in this matter and no vote or approval of the Unit owners is required. Any holder of a mortgage which comes into possession of a unit pursuant to the remedies provided in the mortgage or any purchaser at a sheriff sale of the unit or any mortgagee, or its designee, who accepts a deed for the unit in lieu of foreclosure shall be exempt from the provisions in this Section.

SECTION 7. **Execution of Negotiable Instruments.** All bills payable, notes, checks or other negotiable instruments and all contracts of NEGLEY PARK shall be made in the name of NEGLEY PARK, a condominium, and shall be executed by the President, Vice President or Secretary-Treasurer.

SECTION 8. **Fiscal Year.** The fiscal year of NEGLEY PARK shall begin on the first day of January and end on the 31st day of December of every year except that the first fiscal year shall begin as of the recording of the deed of the first unit.

SECTION 9. **Contracts with Interested Parties.** No contract or other transaction between NEGLEY PARK and any other corporation, firm or individual, and no act of the Council or Unit owners shall, in any way, be affected or invalidated by the fact that any of its Unit owners or Council is **pecuniarily** or otherwise interested as an

owner, officer or otherwise in such corporation or firm; provided, that such fact shall be disclosed to the Council; and any Council member who is also a shareholder, director, employee or officer of such other corporation or a member, employee or officer of such firm, or who is so interested may be counted in determining the existence of a quorum at any meeting of Council which shall authorize such contract or transaction, and may vote thereat to authorize such contract or transaction with like effect as if he were not such shareholder, director, officer, member, employee or owner of such other corporation or firm, or were not so interested.

Unless all holders of first mortgage liens on individual units have given their prior written approval, the association of owners of the condominium, below shall not
:

(a) Change the pro rate interest or obligation of any unit for purposes of levying assessments and charges and determining shares of the common elements and proceeds of the project;

(b) Partition or subdivide any unit or the common elements of the project; nor,

(c) By act or omission seek to abandon the condominium status of the

project except as provided by statute in case of substantial loss to the units and common elements of the condominium and project.

SECTION 10. **Construction of Provisions**. The provisions of this Code of Regulations shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium apartment building. Failure to enforce any provision thereof will not constitute a waiver of the right to enforce said provision or any other provision hereof.

ARTICLE X.

Conflicts Between Declaration and Code of Regulations

In the event of any conflict or inconsistency between this Code of Regulations and the Declaration, the Declaration shall govern.

ARTICLE XI

Severability of Provisions

The provisions shall be deemed independent and severable, and the invalidity or partial invalidity of any part shall not affect the enforceability of any other provisions hereof.

ARTICLE XII

Exculpability of Council and Officers

Neither the Council as a body not any Council officer shall be personally liable to any Unit Owner in any respect for any action or lack of action arising out of the execution of his officers. Each Unit Owner shall be bound by the good faith actions of the Council and council officers of NEGLEY PARK APARTMENTS in the execution of duties of Council and Officers. Unless acting in bad faith, no officer shall be liable to any Unit Owner or other person for misfeasance of malfeasance in office.

IN WITNESS WHEREOF, the undersigned being all of the first members of the Council, adopt this within Code of Regulations, this 16th day of Sept., 1978.

WITNESS: NEGLEY PARK APARTMENTS
/s/Barbara Starkowicz
as to all three____

/s/ G. Brinton Motheral, III
/s/ G. Brinton, Motheral, III
/s/ Daniel Kamin
/s/ Daniel Kamin
/s/ Robert Kamin
/s/ Robert Kamin

COMMONWEALTH OF PENNSYLVANIA)
COUNTY ALLEGHENY)

On this the 26th day of September, 1978, before me a Notary Public, the undersigned officer personally appeared G. BRINTON MOTHERAL, III, DANIEL KAMIN, and ROBERT KAMIN, being all of the first members of the Council, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Barbara Starkowicz_
NOTARY PUBLIC

BARBARA STARKOWICZ,
Notary Public,
PITTSBURGH,
ALLEGHENY COUNTY
MY COMMISSION
EXPIRES JULY 31, 1982
Member, Pennsylvania
Association of Notaries

29 1978 89577

CODE OF REGULATIONS
OF
NEGLEY PARK

23.50

DIPAOLO and RUSSO

MARTINO AND FERRIS
ATTORNIES AT LAW
SUITE 308 CARLTON HOUSE
PITTSBURGH, PA. 15213

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(412)-261-3503

STATE OF PENNSYLVANIA
COUNTY OF ALLEGHENY

RECORDED IN THE OFFICE FOR THE RECORDING OF DEEDS ETC. IN AND FOR THE SAID COUNTY ON THIS 29TH DAY OF NOVEMBER A.D., 1978 IN DEED BOOK VOL. 6039 PAGE 695 WITNESS MY HAND AND SEAL OF SAID OFFICE, THE DAY, AND YEAR AFORESAID.

S/S JOHN J. E RECORDER

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA CIVIL DIVISION-EQUITY No. GD05-11900

CAROLE L. TAYLOR,
Plaintiff,
Vs.
NEGLEY PARK HOMEOWNERS ASSOCIATION COUNCIL,
an unincorporated association,
Defendant And
MARGARET MESSMER,
Defendant.

ORDER OF COURT AUTHORIZING SERVERANCE

And Now, this 18th day of Nov 2005,

Upon consideration of the attached Motion to Sever, it is hereby ORDERED, ADJUDGED, AND DECREED that Count I and Count II are hereby severed for purposes of trial, and that Plaintiff may proceed with scheduling a hearing as to Count II versus Defendant Negley Park Homeowners Association Council.

BY THE COURT
Stanton Wettick, J.

APPENDIX F

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENSYLVANIA CIVIL DIVISION

No. GD05-11900

CAROLE L. TAYLOR :
Plaintiff :
v. :
NEGLEY PARK HOMEOWNERS: ASSOCIATION COUNCIL, :
an unincorporated association, :
Defendant. :
and :
MARGARET MESSMER :

ORDER OF COURT

AND NOW, this 23rd. day of August 2006, upon consideration of Plaintiff's Emergency Motion for Protective Order, it is hereby ORDERED, ADJUDGED and DECREED:

DENIED

BY THE COURT

/s/Ronald W. Folino, J.

APPENDIX G

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION-EQUITY
No. GD05-11900

CAROLE L. TAYLOR :
v. :
:
NEGLEY PARK HOMEOWNERS: ASSOCIATION COUNCIL, et al. :

ORDER

AND NOW, this 23rd day of August, 2006, upon consideration of Plaintiff's Emergency Motion for Protective Order, and having conducted a telephone conference with counsel of record for each of the parties, it is hereby ORDERED and DECREED that:

1. Plaintiff shall appear for deposition on August 24th in the office of counsel for Defendant Messmer, at Fifth Avenue Place, 120 Fifth Avenue, Suite 2700, Pittsburgh, Pennsylvania 15222;

2. The aforementioned deposition shall commence at 2:30 p.m. EDT. If the

deposition is not completed by 6:00 p.m. on August 24th due to argumentative or unresponsive answers by Plaintiff, Plaintiff shall appear in Defendant Messmer's counsel's office at 2:30 p.m. EDT on the following day for continued questioning;

3. Plaintiff has waived the attorney-client privilege with respect to the issue of her attorneys' authority to negotiate a settlement of the claims between Plaintiff and Defendant Messmer. Accordingly, Plaintiff shall produce at the commencement of her deposition any and all written communications between her and her attorneys regarding authority to negotiate that settlement, and the terms thereof. Plaintiff also shall answer deposition questions regarding oral and written communications with her attorneys about those topics; and

4. The Court will rule at a later date on Defendant Messmer's claim that Plaintiff is liable for payment of expedited transcription fees.

BY THE COURT:

/s/ **Ronald W.Folino**
Folino, J.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA CIVIL DIVISION - EQUITY

No. GD05-11900

CAROLE L. TAYLOR	:
	:
Plaintiff	:
	:
	:
Vs.	:
	:
NEGLEY PARK	:
HOMEOWNERS ASSOCIATION:	
An unincorporated association:	
Defendant	:
and	:
MARAGRET MESSMER,	:
Defendant:	:

filed on behalf of at Plaintiff

CAROLE L. TAYLOR
Pro Se

1406 North Negley Ave.
Pittsburgh, Pa. 15206
(412) 661-2415

APPENDIX I

GD05-11900

RE: Carole L. Taylor v. Negley Park Homeowners Association Council, et. Al. Court of Common Pleas of Allegheny County

GD NO. 05-11900
Schnader Harrison Segal & Lewis LLP
Firm I.D. #601
Fifth Avenue Place, Suite 2700
120 Fifth Avenue
Pittsburgh, Pa. 15222-3001

I am writing this letter to inform you and your office about the behavior and conduct of one of your attorneys by the name of Robert Williams. I would find it hard to believe that your Law Firm would support. Or encourage the behavior discussed below. Knowing that, "no man", even an attorney, is above the law. Indeed, attorneys are to conduct themselves by a Code of Ethics.

On August 24, 2006, I had to endure a lengthy and unnecessary experience for a Deposition that was not necessary for all information was already provided to the Defendant in the 33 averments filed by the Plaintiff in the Court, several weeks prior. It is my belief that this issue has gone on too long., Perhaps, your law firm

is unaware that I have tried to set a hearing date over a year ago. The Defendant, by way of her attorney, has continued to cause me the Plaintiff, to suffer mental, physical, emotional, and financial hardship.

The Defendant signed none of the official documents, not the sales contract, not the settlement sheet, nor the right of first refusal clause document. Nor, was there a date on any of the documents. The documents were filled with many errors or untruths. Yet, the Defendant's attorney presented to the Court that he had a June 30, 2006, closing date set, and I the Plaintiff, did not go through with the sale.

During the Deposition, the Defendant's attorney Williams spoke down to me through the entire proceedings. He refused to use my title of Dr., and not once did he call me Dr. Taylor, yet, he referred to the other buyer as Dr. Dunn. He was told over 20 times that the 57 letters he sent back and forth to my attorney were not addressed to me, yet, he demanded that I interpret what was meant by what someone else said and meant. This type of questioning went on for hours. The line of questioning addressed none of the reasons he listed

as to what he needed to be addressed at the Deposition for me to answer. Attorney Williams was told back in September of 2005, that the Plaintiff's attorney would not be handling the matter of the sale of purchase Ms. Messmer's unit. Yet, he continued to send numerous letters and correspondences to Mr. Fall. He even took a lot of time asking me to respond to the many phone calls he had with Mr. Fall. (See Deposition Transcript) He was told what I believe was over 30 or 50 times, that I could not speak for anyone else.

This was the worst experience in my life. I had to endure approximately four hours (4) of questioning, which I felt was disrespectful, harassing, and harmful. I believe that this whole process of the way he conducted the Deposition, caused all of my pain and suffering. The Defendant's attorney, as well as, the Defendant for months, refused to be served with Court papers so that the hearing could take place. (See Court file) He had, Demanded, that I read over 12 Exhibits of approximately, 500 to 1,000 pages, for information that he had already demanded with a 5-day notice to produce, and file with the Court (my Answer to the 33 averments, and to have

a copy sent to the Defendant's attorney. I went to a printing place to copy all the many papers that I needed to be filed with the 33 Averments required for the Petition. I was there when the store opened, and did not leave until they closed. I had to take many breaks, and thus, caused me to be there all day. Why was this at all necessary, when the Defendant's attorney, had the materials given to him in her Answer to the Defendant's 33 Averments, which was in his possession. This behavior must and should not be allowed to continue at my expense. I know that what has been happening is Unconstitutional, and against my rights for life, liberty. And the pursuit of happiness. I am an American Citizen, and I am entitled to all the rights and privileges afforded to all Americans.

I have extreme concerns as to why, or how an officer of the Court is allowed to badger anyone, regardless of how he or she feels about a person, or an issue before the Court, for hours. Around 1:00 P.M., I had no lunch break, nor, did he ask, one of the three questions he had on his list for this Deposition. Yet, at 1:00 p.m., he only wanted to give a 5 to 10-minute break, and he wanted to continue to badger me with more questions. (See Deposition Transcript)

The Defendant's attorney went to Court, without a seven day written notice, to present his Petition. There was another issue before the Court on July 12, 2006. It was not the Defendant's issue. I firmly believe that he presented false statements to the Court to get a Deposition scheduled for me to be subject to such unprofessional behavior, from some of the individuals present at the Deposition. (See Deposition transcript) I believe criminals get better treatment before the Court.

All or most of the statements were untrue and surely unfair to me the Plaintiff, because this event gave me much pain and sickness. I had to walk 3 to 4 blocks to get to the office of the Defendant's attorney in which he demanded that I do. I asked that the Deposition be held at another place. His actions caused me to seek out someone to be with the children with a one-day notice. I believe this was another unnecessary expense.

I had to walk back 3 to 4 blocks to catch a bus back to the school. I was glad that my Attorney walked with me, because I lost my balance, and tripped on the curb and almost fell down, but Attorney Fall grabbed my arm, thus, preventing me

from falling all the way to the ground. Thus, Mr. Fall kept me from having a serious accident with my legs or worse, my whole body. Mr. Fall waited until my bus came to be sure that I was all right. You see, the Defendant's attorney knew that I had physical limitations from the beginning of this matter. That is why I wanted to purchase the first floor unit. The unit that I purchased was a second floor unit in which I have to go up and down 25 steps, each and every day, to get to and from the second floor unit.

After the Deposition, I came Home with a severe headache and my leg was severely swollen. I had to take medicine because of my pain and discomfort was caused by this unnecessary lengthy Deposition, and because the Defendant's attorney would not allow me to have a lunch hour, etc. I cannot believe that he felt he had the right to use the Court system to badger, harass, and attempt to demean me before others. Further. He cannot believe that he will get away with it.

The experience was so devastating that It brought me to tears. When he went out to take his 5 to 20 minute break, and not allow me a lunch hour, he came back into the room, and abruptly stated, he had no

more questions, but when he left the room, he stated that he did have more questions. I informed him that no man is above the law. He therefore, leaves me no choice, but to seek remedy regarding this matter. The Defendant's attorney had 40 days to set a time for a Deposition. Yet, he waited until the last minute to demand a hearing. In my opinion, he has shown unprofessional behavior from the very beginning. I am quite aware that he must b e familiar with the Canon Code, in which all attorneys are bound!! We all have, "Equal Protection under the Law."

What is more outrageous is that my condominium fees were used to pay for this law firm to represent the alleged council for the property, in which the Defendant is a member. This has to be illegal, or at best, a Conflict of Interest. Every issue that is before the Court came by the hands of the alleged Negley Park Homeowners Association Council, and Ms. Messmer, who is a member of the alleged council.

Finally, I trust that these tactics, or any future tactics that I feel are disrespectful and harassing will not be allowed to continue. All I want is my day in Court,

and a decision rendered by the Court, on the issues before the Court.

Sincerely,

/S/ Carole L. Taylor , Plaintiff

CC: Mr. Robert Fall, Attorney

Prothonotary Office

Others

May 11, 2007

Case No. GD 05-11900

Ms. Flati, Ms. O'Kane, and Ms. Messmer, Unit owners- Messmer, 1402, O'Kane, 1404, and Flati, 1408- North Negley Avenue, Pittsburgh, Pennsylvania 15206

Dear unit owners:

I noticed today that you put a political sign in the front of the property in which I too am an owner. You have not notified me that you were going to place many political signs in the yard of the property. I also noticed not one of the properties in the entire block have any signs in their yards.

A major concern that I have is that you placed Honorable Judge Ronald Folino's sign in the yard as well. You know that we are in litigation with each other, and Judge Folino is the presiding judge of record.

This is alarming to me, and I cannot believe that the Honorable Judge Folino is aware that you did this.

I am therefore forwarding a copy of this letter, along with a picture of his sign placed on this property, to his chambers, for his review.

APPENDIX J

Please notify me as to why you felt it was appropriate for you to place a political sign in the yard, where I am a property owner, and a political figure running for office, and I am in court with you and His Court holds jurisdiction over the case, and you do not feel it is a conflict of interest, on your part?

I asked that you start honoring my rights as a unit owner.

I await your rapid reply.

Sincerely yours,

/s/ Dr. Carole L. Taylor
Unit owner

CC: Honorable Judge Ronald Folino
Robert J. Fall, Esq.
Sent by Certified Mail Return Receipt Requested- all parties


Polaroid

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA CIVIL DIVISION

No. GD05-11900

CAROLE L. TAYLOR
Plaintiff,

v.

NEGLEY PARK HOMEOWNERS ASSOCIATION COUNCIL,
an unincorporated association, and
MARGARET MESSMER
Defendant.

ORDER OF COURT

AND NOW, this 1st day of December, 2006, upon consideration of Plaintiff's Motion for Post-Trial Relief and Plaintiff's Preliminary Objections to Defendant Messmer's Answer, New Matter Counterclaim, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

Plaintiff's Motion for Post-Trial Relief is DENIED.

APPENDIX K

The headings in Defendant Messmer's Counterclaim is stricken.

The remaining parts of Plaintiff's Preliminary Objections are

OVERRULED.

BY THE COURT

/s/ Ronald W. Folino, J.

CHAPTER 18 - UNIT PROPERTY ACT

(Note: Library references, cross references, and footnotes have been omitted)

ARTICLE I. PRELIMINARY PROVISIONS

See.
700.101 Short title.
700.102 Definitions
700.103 Application of act.

ARTICLE II. GENERAL PROVISIONS

700.201 Status of units; ownership thereof.
700.202 Common elements.
700.203 Invalidity of contrary agreements.

ARTICLE III. ADMINISTRATIVE PROVISIONS

700.301 Code of regulations.
700.302 Adoption, amendment, etc. of code of regulations.
700.303 Contents of the code of regulations.
700.304 Compliance with code of regulations, administrative provisions, covenants, etc.
700.305 Noncompliance with code of regulations, administrative provisions, covenants, etc.
700.306 Duties of council.
700.307 Powers of council.
700.308 Work on common elements.
700.309 Certain work prohibited.

APPENDIX L

700.310 Easements for work.
700.311 Common profits and expenses.
700.312 Voting by unit owners.
700.313 Books of receipts and expenditures; availability for examination.

ARTICLE IV. THE DECLARATION, RESERVATIONS OF CHARGES THEREUNDER, CONVEYANCES, MORTGAGES AND LEASES

700.401 Contents of declaration.
700.402 Declaration plan.
700.403 Contents of deeds of units.
700.404 Mortgages and other liens of record affecting property at time of the first conveyance of each unit.
700.405 Sales, conveyances or leases of or liens upon separate units.

ARTICLE V. RECORDING

700.501 Instruments recordable.
700.502 Recording a prerequisite to effectiveness to certain instruments.
700.503 Place of recording.
700.504 Indexing by recording officer.
700.505 Recording fees.

ARTICLE VI. REMOVAL OF PROPERTY FROM THE PROVISIONS OF THIS ACT

700.601 Removal.
700.602 Effect of removal.

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ARTICLE I. PRELIMINARY PROVISIONS

§700.101 Short title

This act shall be know and may be cited as the "Unit Property Act". 1963, July 3, P.L. 196, art. I, §101.

§700.102 Definitions

The following words or phrases as used in this act shall have the meanings ascribed to them in this section, unless the context of this act clearly indicates otherwise:

(1) "Building" means any multi-unit building or buildings or complex thereof, whether in vertical or horizontal arrangement, as well as other improvements comprising a part of the property and used, or intended for use, for residential, commercial or industrial purposes or for any other lawful purpose or for any combination of such uses.

(2) "Code of regulations" means such governing regulations as are adopted pursuant to this act for the regulation and management of the property, including such amendments thereof as may be adopted from time to time.

(3) "Common Elements" means and includes:

(i) The land on which the building is located and portions of the building which are not included in a unit;

(ii) The foundations, structural parts, supports, main walls, roofs, basements, halls, corridors, lobbies, stairways and entrances and exits of the building;

(iii) The yards, parking areas and driveways;

(iv) Portions of the land and building used exclusively for the management, operation or maintenance of the common elements;

(v) Installations of all central services and utilities;

(vi) All apparatus and installations existing for common use;

(vii) All other elements of the building necessary or convenient to its existence, management, operation, maintenance and safety or normally in common use; and

(viii) Such facilities as are designated in the

declaration as common elements.

(4) "Common expenses" means and includes:

(i) Expenses of administration, maintenance, repair and replacement of the common elements;

(ii) Expenses agreed upon as common by all the unit owners; and

(iii) Expenses declared common by provisions of this act, or by the declaration or the code of regulations.

(5) "Council" means a board of natural individuals of the number stated in the code or regulations who are residents of this Commonwealth, who need not be unit owners and who shall manage the business, operation and affairs of the property on behalf of the unit owners and in compliance with and subject to the provisions of this act.

(6) "Declaration" means the instrument by which the owner of property submits it to the provisions of this act as hereinafter provided, and all amendments thereof.

(7) "Declaration plan" means a survey of the property prepared in accordance with section 402 of this act.

(8) "Majority" or "majority of the unit owners" means the owners of more than fifty per cent in the aggregate in interest of the undivided ownership of the common elements as specified in the declaration.

(9) "Person" means a natural individual, corporation, partnership, association, trustee or other legal entity.

(10) "Property" means and includes the land,

the building, all improvements thereon, all owned in fee simple, and easements, rights and appurtenances belonging thereto, which have been or are intended to be submitted to the provisions of this act.

(11) "Recorded" means that an instrument has been duly entered of record in the office of the recorder of deeds or department of records of the county in which the property is situate.

(12) "Recorder" means the recorder of deeds or commissioner of records of the county in which the property is situate.

(13) "Revocation" means an instrument signed by all of the unit owners and by all holders of liens against the units by which the property is removed from the provisions of this act.

(14) "Unit" means a part of the property designed or intended for any type of independent use, which has a direct exit to a public street or way, or to a common element or common elements leading to a public street or way, or to an easement or right-of-way leading to a public street or way, and includes the proportionate undivided interest in the common elements, which is assigned thereto in the declaration or any amendments thereof.

(15) "Unit designation" means the number, letter or combination thereof designating a unit in the declaration plan.

(16) "Unit owner" means the person or persons owning a unit in fee simple. 1963, July 3, P.L. 196, art. I., § 102.

§ 700.103 Application of act

This act shall be applicable only to real property, the sole owner of all the owners of which submit the same to the provisions hereof by a duly recorded declaration. 1963, July 3, P.L. 196, art. I, §103.

ARTICLE II. GENERAL PROVISIONS

§ 700.201 Status of units; ownership thereof:

Each unit, together with its proportionate undivided interest in the common elements, is for all purposes real property and the ownership of each unit, together with its proportionate undivided interest in the common elements, is for all purposes the ownership of real property. 1963, July 3, P.L. 196, art. II, § 201.

§700.202 Common elements

The percentage of undivided interest in the common elements assigned to each unit shall be set forth in the declaration and such percentage shall not be altered except by recording an amended declaration duly executed by all of the unit owners affected thereby. The undivided interest in the common elements may not be separated from the unit to which such interest pertains and shall be deemed to be conveyed, leased or encumbered with the unit even though such interest in not expressly referred to or described in the deed, lease, mortgage or other

instrument. The common elements shall remain undivided and no owner may exempt himself from liability with respect to the common expenses by waiver of the enjoyment of the right to use any of the common elements or by the abandonment of his unit or otherwise, and no action for partition or division of any part of the common elements shall be permitted, except as provided in section 802 of this act. Each unit owner or lessee thereof may use the common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other unit owners. The maintenance and repair of the common elements and the making of any additions or improvements thereto shall be carried out only as provided in the code of regulations. 1963, July 3, P.L. 196, art. II, § 202.

§ 700.203 Invalidity of contrary agreements:

Any agreement contrary to the provisions of this act shall be void and of no effect. 1963, July 3, P.L. 196, art. II, § 203.

ARTICLE III. ADMINISTRATIVE PROVISIONS

§ 700.301 Code of regulations

The administration of every property shall be governed by a code of regulations, a true and correct copy of which, and all duly adopted

amendments of which, shall be duly recorded. 1963, July 3, P.L. 196, art. III, § 301.

§700.302 Adoption, amendment, etc. of code of regulations:

The first members of council shall establish and adopt the original code of regulations. Thereafter, no amendment or change of the provisions of the code of regulations shall be effective unless it is adopted at a meeting of the unit owners by the affirmative vote of at least those unit owners who represent a majority of the votes entitled to be cast at that meeting. 1963, July 3, P.L. 196, art. III, § 302.

§700.303 Contents of the code of regulations:

The code of regulations shall provide for at least the following, and may include other lawful provisions:

(1) Identification of the property by reference to the place of record of the declaration plan;

(2) The method of calling meetings of unit owners and meetings of the council;

(3) The number of unit owners and the number of members of council which shall constitute a quorum for the transaction of business;

(4) The number and qualification of members of council, the duration of the term of such members and the method of filling vacancies;

(5) The annual election by the council of a president, secretary and treasurer and any other officers which the code of regulations

may specify;

(6) The duties of each officer, the compensation and removal of officers and the method of filling vacancies;

(7) Maintenance, repair and replacement of the common elements and payment of the cost thereof;

(8) The manner of collecting common expenses from unit owners; and

(9) The method of adopting and of amending rules governing the details of the use and operation of the property and the use of the common elements. 1963, July 3, P.L. 196, art. III, §303.

§ 700.304 Compliance with code of regulations, administrative provisions, covenants, etc.

Each unit owner shall comply with the code of regulations and with such rules governing the details of the use and operation of the property and the use of the common elements as may be in effect from time to time, and with the covenants, conditions and restrictions set forth in the declaration or in the deed to his unit or in the declaration plan. 1963, July 3, P.L. 196, art. III, § 304.

§ 700.305 Noncompliance with code of regulations, administrative provisions, covenants, etc.

Failure to comply with the code of regulations

and with such rules governing the details of the use and operation of the property and the use of the common elements as may be in effect from time to time and with the covenants, conditions and restrictions set forth in the declaration or in deeds of units or in the declaration plan shall be grounds for an action for the recovery of damages or for injunctive relief, or both, maintainable by any member of the council on behalf of the council or the unit owners or, in a proper case by, an aggrieved unit owner or by any person who holds a mortgage lien upon a unit and is aggrieved by any such noncompliance. 1963, July 3, P.L. 196, art. III, § 305.

§700.306 Duties of Council:

The duties of the council shall include the following:

(1) The maintenance, repair and replacement of the common elements;

(2) The assessment and collection of funds from unit owners for common expenses and the payment of such common expenses;

(3) The promulgation, distribution and enforcement of rules governing the details of the use and operation of the property and the use of the common elements, subject to the right of a majority of the unit owners to change any such rules; and,

(4) Any other duties which may be set forth in the declaration or code of regulations. 1963, July 3, P.L. 196, art. III, § 306.

§ 700.307 Powers of Council:

Subject to the limitations and restrictions contained in this act, the declaration and the code of regulations, the council shall on behalf of the unit owners:

(1) Have power to manage the business, operation and affairs of the property and for such purposes to engage employees and appoint agents and to define their duties and fix their compensation, enter into contracts and other written instruments or documents and to authorize the execution thereof by officers elected by the council; and,

(2) Have such incidental powers as may be appropriate to the performance of their duties. 1963, July 3, P.L. 196, art. III, § 307.

§700.308 Work on common elements:

The maintenance, repair and replacement of the common elements and the making of improvements or additions thereto shall be carried on only as provided in the code of regulations. 1963, July 3, P.L. 196, art. III, § 308.

§700.309 Certain work prohibited:

No unit owner shall do any work which would jeopardize the soundness or safety of the property or impair any easement or hereditament without the unanimous consent of the unit owners affected thereby. 1963, July

3, P.L. 196, art. III, §309.

§700.310 Easements for work:

The council shall have an easement to enter any unit to maintain, repair or replace the common elements, as well as to make repairs to units if such repairs are reasonably necessary for public safety or to prevent damage to other units or to the common elements. 1963, July 3, P.L. 196, art. III, § 310.

§700.311 Common profits and expenses:

The common profits of the property shall be distributed among, and the common expenses shall be charged to, the unit owners according to the percentage of the undivided interest of each in the common elements as set forth in the declaration and any amendments thereto. 1963, July 3, P.L. 196, art. III, § 311.

§700.312 Voting by unit owners:

At any meeting of unit owners, each unit owner shall be entitled to the same number of votes as the percentage of ownership in the common elements assigned to his unit in the declaration and any amendments thereto. 1963, July 3, P.L. 196, art. III, § 312.

§ 700.313 Books of receipts and expenditures; availability for

examination:

The treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the common elements, specifying and itemizing the maintenance, repair and replacement expenses of the common elements and any other expenses incurred. Such records shall be available for examination by the unit owners during regular business hours. In accordance with the actions of the council assessing common expenses against the units and unit owners, he shall keep an accurate record of such assessments and of the payment thereof by each unit owner. 1963, July 3, P.L. 196, art. III, § 313.

ARTICLE IV. THE DECLARATION, RESERVATIONS OF CHARGES THEREUNDER, CONVEYANCES, MORTGAGES AND LEASES

§700.401 Contents of declaration:

The declaration shall contain the following:

(1) A reference to this act and an expression of the intention to submit the property to the provisions of this act;

(2) A description of the land and building;

(3) The name by which the property will be known;

(4) A statement that the property is to consist of units and common elements as

shown in a declaration plan;

(5) A description of the common elements and the proportionate undivided interest, expressed as a percentage, assigned to each unit therein, which percentages shall aggregate one hundred per cent;

(6) A statement that the proportionate undivided interest in the common elements may be altered by the recording of an amendment duly executed by all unit owners affected thereby;

(7) A statement of the purposes or uses for which each unit is intended and restrictions, if any, as to use;

(8) The names of the first members of council;

(9) Any further details in connection with the property which the party or parties executing the declaration may deem appropriate. 1963, July 3, P.L. 196, art. IV, §401.

§700.402 Declaration plan:

The declaration plan shall bear the verified statement of a registered architect or licensed professional engineer certifying the declaration plan fully and accurately (i) shows the property, the location of the building thereon, the building and layout of the floors of the building, including the units and the common elements and (ii) sets forth the name by which the property will be known, and the unit designation for each unit therein. 1963, July 3, P.L. 196, art. IV, § 402.

§ 700.403 Contents of deeds of units:

Deeds of units shall include the following:

(1) The name by which the property is identified in the declaration plan and the name of the political subdivision and the ward, if any, and the name of the county in which the building is situate, together with a reference to the declaration and the declaration plan, including reference to the place where both instruments and any amendments thereof are recorded;

(2) The unit designation of the unit in the declaration plan and any other data necessary for its proper identification;

(3) A reference to the last unit deed if the unit was previously conveyed;

(4) The proportionate undivided interest, expressed as a percentage, in the common elements which is assigned to the unit in the declaration and any amendments thereof;

(5) In addition to the foregoing, the first deed conveying each unit shall contain the following specific provision:

The grantee, for and on behalf of the grantee and the grantee's heirs, personal representatives, successors and assigns, by the acceptance of this deed covenants and agrees to pay such charges for the maintenance of, repairs to, replacement of and expenses in connection with the common elements as may be assessed from time to time by the council in accordance with the Unit Property Act of Pennsylvania, and further covenants and

agrees that the unit conveyed by this deed shall be subject to a charge for all amounts so assessed and that, except in so far as sections 705 and 706 of said Unit Property Act may relieve a subsequent unit owner of liability for prior unpaid assessments, this covenant shall run with and bind the land or unit hereby conveyed and all subsequent owners thereof"; and,

(6) Any further details which the grantor and grantee may deem appropriate and which are consistent with the declaration, the code of regulations, the declaration plan and this act.
1963, July 3, P.L. 196, art. IV, § 403.

§ 700.404 Mortgages and other liens of record affecting property at time of the first conveyance of each unit:

At the time of the first conveyance of each unit following the recording of the original declaration, every mortgage and other lien of record affecting the entire building or property or a greater portion thereof than the unit being conveyed shall be paid and satisfied of record, or the unit being conveyed shall be released therefrom by partial release duly recorded.
1963, July 3, P.L. 196, art. IV, § 404.

§ 700.405 Sales, conveyances or leases of or liens upon separate units:

Units may be sold, conveyed, mortgaged,

leased or otherwise dealt with in the same manner as like dealings are conducted with respect to real property and interests therein. Every written instrument dealing with a unit shall specifically set forth the name by which the property is identified and the unit designation identifying the unit involved. 1963, July 3, P.L. 196, art. IV, § 405.

ARTICLE V. RECORDING

§ 700.501 Instruments recordable:

All instruments relating to the property or any unit, including the instruments provided for in this act, shall be entitled to be recorded, provided that they are acknowledged or proved in the manner provided by law. 1963, July 3, P.L. 196, art. V, § 501.

§700.502 Recording a prerequisite to effectiveness to certain instruments:

No declaration, declaration plan or code of regulations, or any amendments thereto, shall be effective until the same have been duly recorded. 1963, July 3, P.L. 196, art. V, §502.

§700.503 Place of recording:

The recorder shall record declarations, deeds of units, codes of regulations, and revocations in the same records as are maintained for the recording of deeds of real property. Mortgages

relating to units shall be recorded in the same records as are maintained by the recorder for the recording of real estate mortgages. Declaration plans, and any and all amendments thereto, shall be recorded in the same records as are maintained for the recording of subdivision plans. 1963, July 3, P.L. 196, art. V, § 503.

§ 700.504 Indexing by recording officer:

The recorder shall index each declaration against the maker thereof as the grantor and the name by which the property is identified therein as the grantee. The recorder shall index each declaration plan and code of regulations and any revocation in the name by which the property is identified therein in both the grantor index and the grantee index. The recorder shall index each unit deed and mortgage and lease covering a unit in the same manner as like instruments are indexed. 1963, July 3, P.L. 196, art. V, § 504.

§700.505 Recording fees:

The recorder shall be entitled to charge the same fees for recording instruments which are recordable under this act as the recorder is entitled to charge for like services with respect to the recording of instruments. 1963, July 3, P.L. 196, art. V, § 505.

ARTICLE VI. REMOVAL OF PROPERTY

FROM THE PROVISIONS OF THIS ACT

§700. 601 Removal:

Property may be removed from the provisions of this act by a revocation expressing the intention to so remove property previously made subject to the provisions of this act. No such revocation shall be effective unless the same is executed by all of the unit owners and by the holders of all mortgages, judgments or other liens affecting the units and is duly recorded. 1963, July 3, P.L. 196, art. VI, § 601.

§ 700.602 Effect of removal:

When property subject to the provisions of this act has been removed as provided in section 601 of this act, the former unit owners shall, at the time such removal becomes effective, become tenants in common of the property. The undivided interest in the property owned in common which shall appertain to each unit owner at the time of removal shall be the percentage of undivided interest previously owned by such person in the common elements. 1963, July 3, P.L. 196, art. VI, § 602.

§ 700.603 Resubmission:

The removal of property from the provisions of this act shall not preclude such property

from being submitted to the provisions of the act in the manner herein provided. 1963, July 3, P.L. 196, art. VI, § 603.

ARTICLE VII. ASSESSMENTS, TAXATION AND LIENS

§700.701 Assessments and taxes:

Each unit and its proportionate undivided interest in the common elements as determined by the declaration and any amendments thereof shall be assessed and taxed for all purposes as a separate parcel of real estate entirely independent of the building or property of which the unit is a part. Neither the building, the property nor any of the common elements shall be assessed or taxed separately after the declaration and declaration plan are recorded, nor shall the same be subject to assessment or taxation, except as the units and their proportionate undivided interests in the common elements are assessed and taxed pursuant to the provisions of this section. 1963, July 3, P.L. 196, art. VII, § 701.

§ 700.702 Assessment of charges:

All sums assessed by resolutions duly adopted by the council against any unit for the share of common expenses chargeable to that unit shall constitute the personal liability of the owner of the unit so assessed and shall, until fully paid,

together with interest thereon at the rate of six per cent per annum from the thirtieth day following the adoption of such resolutions, constitute a charge against such unit which shall be enforceable as provided in section 703 of this act. 1963, July 3, P.L. 196, art. VII, § 702.

§700.703 Method of enforcing charges:

Any charge assessed against a unit may be enforced by suit by the council acting on behalf of the unit owners in an action in assumpsit: Provided, That each suit when filed shall refer to this act and to the unit against which the assessment is made and the owner thereof and shall be indexed by the prothonotary as lis pendens. Any judgment against a unit and its owner shall be enforceable in the same manner as is otherwise provided by law. 1963, July 3, P.L. 196, art. VII, § 703.

§ 700.704 Mechanics' liens against units:

Any mechanics' liens arising as a result of repairs to or improvements of a unit by a unit owner shall be liens only against such unit. Any mechanic's liens arising as a result of repairs to or improvements of the common elements, if authorized in writing pursuant to a duly adopted resolution of the council, shall be paid by the council as a common expense and until so paid shall be liens against each unit in a percentage equal to the proportionate

share of the common elements relating to such unit. 1963, July 3, P.L. 196, art. VII, § 704.

§ 700.705 Unpaid assessments at time of execution sale against a unit:

In the event that title to a unit is transferred by sheriff's sale pursuant to execution upon any lien against the unit, the council may give notice in writing to the sheriff of any unpaid assessments for common expenses which are a charge against the unit but have not been reduced to lien pursuant to section 703 of this act, and the sheriff shall pay the assessments of which he has such notice out of any proceeds of the sale which remain in his hands for distribution after payment of all other claims which he is required by law to pay, but prior to any distribution of the balance to the former unit owner against whom the execution issued. The purchaser at such sheriff's sale and the unit involved shall not be liable for unpaid assessments for common expenses which became due prior to the sheriff's sale of the unit. Any such unpaid assessments which cannot be promptly collected from the former unit owner may be reassessed by the council as a common expense to be collected from all of the unit owners, including the purchaser who acquired tile at the sheriff's sale, his successors and assigns. To protect its right to collect unpaid assessments which are a charge against a unit, the council may on behalf of the

unit owners, purchase the unit at sheriff's sale provided such action is authorized by the affirmative vote of a majority of the members of council, and if it does so purchase, the council shall thereafter have the power to sell, convey, mortgage or lease such unit to any person whatsoever. 1963, July 3, P.L. 196, art. VII, § 705.

§700.706 Unpaid assessments at time of voluntary sale of a unit:

Upon the voluntary sale or conveyance of a unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments for common expenses which are a charge against the unit as of the date of the sale or conveyance, but such joint and several liability shall be without prejudice to the grantee's right to recover from the grantor the amount of any such unpaid assessments which the grantee may pay, and until any such unpaid assessments are paid, they shall continue to be a charge against the unit which may be enforced in the manner set forth in section 703 of this act: Provided, however, That any person who shall have entered into a written agreement to purchase a unit shall be entitled to obtain a written statement from the treasurer setting forth the amount of unpaid assessments charged against the unit and its owners, and if such statement does not reveal the full amount of the unpaid assessments as of the date it is rendered, neither the

purchaser nor the unit shall be liable for the payment of an amount in excess of the unpaid assessments shown thereon. Any such excess which cannot be promptly collected from the former unit owner may be reassessed by the council as a common expense to be collected from all of the unit owners, including the purchaser, his successors and assigns. 1963, July 3, P.L. 196, art. VII, §706.

ARTICLE VIII. MISCELLANEOUS

§ 700.801 Insurance:

The council shall, if required by the declaration, the code of regulations or by a majority of the unit owners, insure the building against loss or damage by fire and such other hazards as shall be required or requested, without prejudice to the right of each unit owner to insure his own unit for his own benefit. The premiums for such insurance on the building shall be deemed common expenses. 1963, July 3, P.L. 196, art. VIII, § 801.

§ 700.802 Repair or reconstruction:

Except as hereinafter provided, damage to or destruction of the building or of one or more of several buildings which comprise the property shall be promptly repaired by the council using the proceeds of insurance held by the council, if any, for that purpose, and the unit owners

directly affected thereby shall be liable for assessment for any deficiency in proportion to their respective undivided ownership of the common elements: Provided, however, That if there is substantially total destruction of the building or of one or more of several buildings which comprise the property, or if seventy-five per cent of the unit owners directly affected thereby duly resolve not to proceed with repair or restoration, then, and in that event, the salvage value of the property or of the substantially destroyed building or buildings shall be subject to partition at the suit of any unit owner directly affected thereby, in which event the net proceeds of sale, together with the net proceeds of insurance policies held by the council, if any, shall be considered as one fund and shall be divided among all the unit owners directly affected thereby in proportion to their respective undivided ownership of the common elements, after discharging, out of the respective shares of unit owners directly affected thereby, to the extent sufficient for the purpose, all liens against the units of such unit owners. 1963, July 3, P.L. 196, art. VIII, § 802.

§ 700.803 Eminent domain:

Whenever all or part of the common elements shall be taken, injured or destroyed by eminent domain, each unit owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, but in any

proceeding for the determination of damages, such damages shall be determined for such taking, injury or destruction as a whole and not for each unit owner's interest therein. After such determination each unit owner shall be entitled to a share in the damages in the same proportion as his individual interest in the common elements. 1963, July 3, P.L. 196, art. VIII, § 803.

§ 700.804 Severability:

If any provision of this act, or any section, sentence, clause, phrase or word, or the application thereof in any circumstance is held invalid, the validity of the remainder of the act and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances, shall not be affected thereby. 1963, July 3, P L. 196, art. VIII, § 804.

§ 700.805 Effective date:

This act shall take effect immediately. 1963, July 3, P.L. 196, art. VIII, § 805.

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION – EQUITY

CAROLE L. TAYLOR No. GD05-11900
v. :

NEGLEY PARK HOMEOWNERS :
ASSOCIATION COUNCIL et al. :

AFFIDAVIT OF THERESA R. FLATI

Theresa R. Flati, being duly sworn according to law, hereby deposes and says the following:

1. I am an adult individual.

2. I currently own and reside at a unit in the Negley Park condominiums, namely, 1408 North Negley Avenue, Pittsburgh, Pennsylvania 15206.

3. I presently am a member of the three-person council that is charged with responsibility for the management, operation

and affairs of the Negley Park Condominiums, pursuant to paragraph 12 of the duly recorded Declaration of Condominium Ownership of Negley Park and the duly recorded Code of Regulations of Negley Park (hereinafter, the Council).

4. I presently hold the office of President of the Council.

5. If an election were held among the unit owners to elect a new three-person Council, I would not cast any vote in favor of electing Carole L. Taylor to serve on the Council, or in favor of any non-unit owing person that is nominated by Ms. Taylor.

6. Notwithstanding the fact that I would not cast any vote in favor of the election of Ms. Taylor (or her nominee) to serve on Council, if

Ms. Taylor (or her nominee) were elected or otherwise appointed to serve on the Council, I would not cast any vote in favor of her election as an officer of said Council.

5. If I remain a Council member or am re-elected to serve on the Council, and a revote is taken to determine whether the Council should exercise any right of first refusal with respect to the purchase of unit 1402, owned by Margaret Messmer, I would vote to refrain from exercising said right.

Further affiant sayeth naught.

/s/_____
Theresa R. Flati

Sworn to and subscribed
before me this 6th day of June, 2005
Diana Lee Heaney
/s/_____Notary Public

COMMONWEALTH OF PENNSYLVAIIA

Notarial Seal
Diana Lee Heaney, Notary Public
City of Pittsburgh, Allegheny County
My Commission Expires Nov. 11, 2008
Member, Pennsylvania Association of Notaries

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION – EQUITY

CAROLE L. TAYLOR No. GD05-11900
v. :

NEGLEY PARK HOMEOWNERS :
ASSOCIATION COUNCIL et al. :

AFFIDAVIT OF PATRICIA O'KANE

Patricia O' Kane, being duly sworn according to law, hereby deposes and says the following:

1. I am an adult individual.

2. I currently own and reside at a unit in the Negley Park condominiums, namely, 1404 North Negley Avenue, Pittsburgh, Pennsylvania 15206.

3. I presently am a member of the three-person council that is charged with responsibility for the management, operation and affairs of the Negley Park Condominiums, pursuant to paragraph 12 of the duly recorded Declaration of Condominium Ownership of Negley Park and the duly recorded Code of Regulations of Negley Park (hereinafter, the Council).

4. I presently hold the office of Secretary/Treasurer of the Council.

5. If an election were held among the unit owners to elect a new three-person Council, I would not cast any vote in favor of electing Carole L. Taylor to serve on the Council, or in favor of any non-unit owing person that is nominated by Ms. Taylor.

6. Notwithstanding the fact that I would not cast any vote in favor of the election of Ms. Taylor (or her nominee) to serve on Council, if Ms. Taylor (or her nominee) were elected or otherwise appointed to serve on the Council, I would not cast any vote in favor of her election as an officer of said Council.

6. If I remain a Council member or am re-elected to serve on the Council, and a revote is taken to determine whether the Council should exercise any right of first refusal with respect to the purchase of unit 1402, owned by Margaret Messmer, I would vote to refrain from exercising said right.

Further affiant sayeth naught.

/s/_____
Patricia O' Kane

Sworn to and subscribed
before me this 6th day of June, 2005
Diana Lee Heaney
/s/_____Notary Public

COMMONWEALTH OF PENNSYLVAIIA

Notarial Seal
Diana Lee Heaney, Notary Public
City of Pittsburgh, Allegheny County
My Commission Expires Nov. 11, 2008
Member, Pennsylvania Association of Notaries

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION – EQUITY

CAROLE L. TAYLOR No. GD05-11900
v. :

NEGLEY PARK HOMEOWNERS :
ASSOCIATION COUNCIL et al. :

AFFIDAVIT OF MARGARET D. MESSMER

Margaret D. Messmer, being duly sworn according to law, hereby deposes and says the following:

1. I am an adult individual.

2. I currently own and reside at a unit in the Negley Park condominiums, namely, 1402 North Negley Avenue, Pittsburgh,

Pennsylvania 15206.

3. I presently am a member of the three-person council that is charged with responsibility for the management, operation and affairs of the Negley Park Condominiums, pursuant to paragraph 12 of the duly recorded Declaration of Condominium Ownership of Negley Park and the duly recorded Code of Regulations of Negley Park (hereinafter, the Council).

4. I presently hold the office of Vice-President of the Council.

5. If an election were held among the unit owners to elect a new three-person Council, I would not cast any vote in favor of electing Carole L. Taylor to serve on the Council, or in favor of any non-unit owing person that is

nominated by Ms. Taylor.

6. Notwithstanding the fact that I would not cast any vote in favor of the election of Ms. Taylor (or her nominee) to serve on Council, if Ms. Taylor (or her nominee) were elected or otherwise appointed to serve on the Council, I would not cast any vote in favor of her election as an officer of said Council.

7. If I remain a Council member or am re-elected to serve on the Council, and a revote is taken to determine whether the Council should exercise any right of first refusal with respect to the purchase of unit 1402, owned by Margaret Messmer, I would vote to refrain from exercising said right.

Further affiant sayeth naught.

/s/_____

Margaret D. Messmer

Sworn to and subscribed

before me this 6th day of June, 2005

Diana Lee Heaney

/s/_____Notary Public

COMMONWEALTH OF PENNSYLVAIIA

Notarial Seal Diana Lee Heaney, Notary Public City of Pittsburgh, Allegheny County My Commission Expires Nov. 11, 2008 Member, Pennsylvania Association of Notaries

GOLDBERG, KAMIN & GARVIN
Attorneys at Law
1806 Frick Building
437 Grant Street
Pittsburgh, PA 15219-6101

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Samuel P. Kamin
Robert J. Garvin
David A. Wolf
Jonathan M. Kamin
John J. Arminas

Counsel To The Firm
Stuart E. Savage
Walter G. Bleil

Of Counsel
Robert W. Mandell
Frank J. Pistella

November 6, 2006

Dr. Carole L. Taylor
1406 N. Negley Avenue
Pittsburgh, PA 15206

In Re: Carole L. Taylor
Negley Park Homeowners
Association Council, et at
Our File No. 13449

Dear Dr. Taylor:

Kindly permit this letter to serve as a response to your correspondence of

September 15, 2006. I apologize for the delay in this response. However, you have submitted numerous comments, questions and observations, which required discussion and review with our clients. Toward that end, I submit the following responses that correspond to the enumerated items of your correspondence of September 15, 2006.

Item 1. My clients and I are not certain as to what exactly you are referring. You indicate that you know that your code of regulations governs you from having all of these major violations_. I assume for purposes of this response that you are referring to the numbered items in your September 15, 2006 correspondence as major violations.

Item 2. As far as we are aware, there are no open citations or violations with the Allegheny County Health Department or the City of Pittsburgh Bureau of Building Inspection. As such, if you have documentation relative to the same, I would ask that it to me for my review and response. As for the broken concrete, do you have an estimate for the repair? Will you commit to paying as a special assessment your proportionate share for remediation of the

Same?

Item 3 is a comment requiring no response.

Item 4. I am forwarding a copy of the master insurance policy for the Condominium Association.

Item 5. There is no prohibition in the Condominium's Rules and Regulations or the Condominium Declaration which prohibits smoking in any of the units.

Item 6. There is no prohibition in the Condominium's Rules and Regulations or the Condominium Declaration which prohibits or limits pets in any of the units.

Item 7. I am enclosing copies of Council Minutes from 2003 to the present.

Item 8. I am enclosing copies of all bank statements and records which we have from December 2002 to June 2005 when the litigation began. There is one statement missing and we are attempting to obtain a copy of the same. I note that these were available to you and your legal counsel, but you chose not to obtain them.

Item 9. I am enclosing copies of cancelled checks which provide evidence of the payment of the items in Item 9 and am providing you with certain documentation concerning repairs that have been paid for.

Item 10. is a comment that does not need to be addressed.

Item 11 is a comment that does not need to be addressed.

Items 12-13 In response to Item 12, I do not believe that we are required to demand IRS W-9 Forms as the Negley Park Homeowners Association is not required to file an Information Return, such as the Form 1120-H referred to in your Paragraph 13. We are only required to file a Form 1120 –H if there is non-condominium space. As such, I do not believe that we are required to demand that any vendors or contractors that we use submit an IRS W-9, nor are we required to file the form 1120-H.

Item 14. Do you have estimates for the items reflected in your item 14? If so, please submit the same to me and also advise whether you will provide an unqualified, unconditional

agreement to pay your proportionate share for the same.

Item 15. I am forwarding to you a copy of the

check issued by the City of Pittsburgh in the amount of $630.00, together with the reverse side of the check evidencing its deposit. I believe that distributions were not made from these funds and that the amount remained in the Condominium Association's account.

Items 16-17. We will be proceeding with filing a Fictitious Name Registration for the Homeowners Association. We will also be billing you your proportionate share of the cost of the same.

Item 18 I do not believe that bonding is required for the Association's Regulations or Declaration, nor under the Uniform Condominium Act. Accordingly, the same will not be provided.

If you or anyone on your behalf have any questions or comments on these matters, please feel free to contact me at your earliest convenience:

Very truly yours,

/s/ ROBERT J. GARVIN

RJG:tr
Enclosures
Cc: Theresa Flati
Patricia O' Kane
Meg Messmer
Robert J. Fall, Esquire

3-1-65-33 1236

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE

To All To Whom These Present Shall Come, Greetings:

***Whereas,* In and by Article XI of the Business Corporation Law, Approved the fifth day of May, Anno Domini one thousand nine hundred and thirty-three, the Department of State is authorized and required to issue a**

CERTIFICATE of DISSOLUTION

Evidencing the dissolution of a business corporation organized under or subject to the provisions of that Law, and

***Whereas,* The stipulations and conditions of that Law relating To the voluntary dissolution of a business corporation have been fully Complied with by:**

NEGLEY PARK CORPORATION

***Therefore, Know Ye,* That under the authority of the Business Corporation**

Law I do by these presents, which I have caused to be sealed With the Great Seal of the Commonwealth hereby dissolve the corporation Named above, which shall henceforth cease to exist and enjoy the powers, privileges and franchises of a business corporation under the laws of this Commonwealth.

GIVEN under my Hand and the Great Seal of the Commonwealth, at the City of Harrisburg, This 6th day of December in the year of our Lord one thousand nine Hundred and sixty-five and of the Commonwealth the one Hundred and_____ninetieth.

/s/ W, Stewart Helner.
Secretary of the Commonwealth

SEAL

CBC Roll 47-8 Film
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE

***To All To Whom These Presents Comes Greetings*:**

***WHEREAS*, In and by the Business Corporation Law (At No. 106) approved the 5th day of May, Anno Domini, one thousand nine hundred and thirty three, the Department of State is authorized**

and required to issue a,

CERTIFICATE OF INCORPORATION

evidencing the incorporation of a business corporation organized under the provisions of that law.

***AND WHEREAS,* The stipulations and conditions of that law have been fully complied with by the persons desiring to incorporate as**

NEGLEY PARK CORPORATION

***THEREFORE, KNOW YE* That subject to the Constitution of the Commonwealth and, under the authority of the Business Corporation Law, I do by these presents, which I have caused to be sealed with the Great Seal of the Commonwealth, create, erect, and incorporate the incorporation of and the subscribers to the shares of the proposed corporation named above, their associates and successors, and also those who may thereafter become subscribers or holders of the shares of such corporation, into a body politic and corporate in deed and in law by the name chosen and hereinto fore specified, which shall exist perpetually, and shall be invested with, and have and enjoy all the favors, privileges, and franchises incident to a business**

corporation and be subject to all the duties, requirements, and restrictions specified and enjoined in and by the Business Corporation Law and all other applicable laws of this Commonwealth.

Given under my Hand and the **Great Seal of the Commonwealth, at the City of Harrisburg, this 31st day of March in the year of our Lord one thousand nine hundred and forty-seven and of The Commonwealth the one hundred and Seventy-first**

/s/
County Secretary of the Commonwealth

DSCB-55 (Rev. 2-65

3-1-65.33 1235

Articles of Dissolution
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
CORPORATION BUREAU

In compliance with the requirements of Article XI of the Business Corporation Law, approved May 5, 19, P.L. 364, as amended, this following named Pennsylvania business corporation presents the following Articles of Dissolution under its corporate seal for filing in the office of the Secretary of the Commonwealth and

further states:

1. The name of the corporation is

NEGLEY PARK CORPORATION

2. The address of its present registered office is 50 Thirty-second Street - Pittsburgh, PA 15201

3. A certificate of election to dissolve was heretofore approved and filed by the Department of State on March 3rd, 1965.

4. All debts, obligations and liabilities of the corporation
(a) have been paid and discharged,
xxxxxxxxxxxxxxxxxx.
(Strike out (a) or (b))

5. All remaining property and assets of the corporation have been distributed among its shareholders, in accordance with their respective rights and interests.

6. (a) There are no suits pending against the corporation in any court, or
(xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.)
(Strike out (a) or (b))

7. Certificates evidencing payment by the corporation of all bonus, taxes and charges as required by law, are attached hereto from Department of Revenue, Department of Labor and Industry,

Department of State.

IN TESTIMONY WHEREOF, the aforesaid corporation has caused these articles of dissolution to be signed in its name and on its behalf by its President or Vice-President and its corporate seal duly attested by its Secretary or Treasurer to be hereto affixed on the 2nd day of December, 19 65.

NEGLEY PARK CORPORATION
/s/ O. H.Martin
President xxxxxxxx)

/s/ John E. Hale
(CORPORATE SEAL)
Approved and filed in the Department of State on the 6th day of December A. D. 19 65.
/s/ W. Stewart Helman
Secretary of the Commonwealth

31-1-65.6

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
CORPORATION BUREAU

CERTIFICATE OF ELECTION TO DISSOLVE

In accordance with the provisions of Article XI, of the Business Corporation Law, approved May 5, 1933, P.L. 364, as amended, the within corporation hereby certifies under its corporate seal:

1. The name of the corporation is:

2. The address of its registered office is:
50 Thirty Second Street, Pittsburgh 1, Pennsylvania

3. The names and addresses, including street and number, and official titles of its officers are:

Name	Address	Offficial Title
O. H. Martin	R.D. #1, Mars Pennsylvania	President
John E. Hale	University Square Apartments Pittsburgh 13, Pennsylvania	Secretary
Walter Toole	214 Hampton Road, Aspinwall, Pittsburgh, 15, Pennsylvania	Treasurer

4. The names and addresses, including street and number, of its Directors are:

Name	Address
O.H. Martin	R.D. #1, Mars, Pennsylvania
Peter Cooper	143 Crescent Drive, Pittsburgh 28, Pennsylvania
John E. Hale	University Square Apartments, Pittsburgh 13, Pa.
Walter Toole	214 Hampton ? Road, Aspinwall, Pittsburgh 15, Pa.
C.A. Lake	203 Highland Terrace, Aspinwall, Pittsburgh 15, Pa.

H. K. Fred Mercer, 220 South Homewood Avenue, Pittsburgh 8, Pa.

William N. Steitz, Jr. 2501 Saddle Drive, Allison Park, Pennsylvania

5. (a)

(b) A resolution recommending that the corporation be dissolved was adopted by the shareholdlers at a meeting held in accordance with law. At the time of each meeting there were 25,000 shares outstanding of which 25,000 shares were entitled to vote with respect to the dissolution of the corporation 21,611 shares voted in favor of the resolution and no shares voted against the ressolution.

IN TESTIMONY WHERE OF, the aforesaid corporation has caused this certificate to be signed by its President or Vice-President and its corporate seal, duly attested by its Secretary or Treasurer, to be hereto affixed on the 5th day of February, 1965.

Negley Park Corporation

By: /s/ O. H. Martin
President(or Vice-President)

CORPORATE SEAL,

ATTEST:

/s/ John E. Hale
Secretary (or Treasurer)

DSCB-25 (Rev. 2-60) 3-1-65.6 1192

Change of Registered
Office - Pennsylvania
Business Corporation **COMMONWEALTH PENNSYLVANIA DEPARTMENT OF STATE CORPORATION BUREAU**

In compliance with the requirements of Section 307 of the Business Corporation Law approved May 5, 1933, P.L. 364, as amended, the following named Pennsylvania business corporation makes the following statement under Its corporate seal:

1. The name of the corporation is:
NEGLEY PARK CORPORATION

2. The address of its present registered office is:
1103 LAW & FINANCE BUILDING, (number) (street) PITTSBURGH (City) (County) ALLEGHENY

3. The address to which the registered office is to be changed is:50 THIRTY SECOND STREET (Number) (Street) PITTSBURGH (City) (County) ALLEGHENY

4. Such change was authorized by resolution duly adopted by at least a majority of the members of the board of directors.

IN TESTIMONY WHEREOF, the corporation has caused this statement to be signed by its President or Vice-President and its corporate seal, duly attested by its Secretary or Treasurer to be hereunto affixed this 12th day of February, 19 65.

NEGLEY PARK CORPORATION

/S/ O. H. Martin
(President xxxxxxxxxxxxx)

Attest:

/S/ J. E. Hale
(Secretary xxxxxxxxxxxxxxxxx)

(CORPORATE)
(SEAL)

approved and filed in the Department of State on the 3rd day of March A. D. 19 65.

/s/ George I Bloom
Secretary of the
Commonwealth

FILING FEE - $10.00
DSCB-51-10M-7-43 CBC 47-17 Film 86

AFFIDAVIT OF PAID IN CAPITAL

STATE OF PENNSYLVANIA)
COUNTY OF ALLEGHENY)

On this 29th day of July, 1947, before me, a Notary Public, in and for the State and county above named, personally appeared O. H. Martin, Peter Cooper, C.A. Lake and John E. Hale and being duly sworn, did depose and say that they are a majority of the Board of Directors of

Negley Park Corporation

a corporation incorporated under the Business Corporation Law of the Commonwealth of Pennsylvania by a Certificate of Incorporation granted on the 31st day of March, 19 47 that $ 500.00, the amount of capital with which the Corporation will begin business as stated in the articles of Incorporation has been fully paid in, to the Treasury of the Corporation, in cash.

Sworn and subscribed to before me
the day and year above written

) /s/ **O.H.Martin**
SEAL) **/s/PeterCooper**
) **/s/ G.A. Lake**
) **/s/ John Hale**

Lottie Lotz NOTARY PUBLIC
My Commission Expires January 7-1951
Filed in the Department of State on the 4th day of August 19 47
/s/_____

Deputy Secretary of the Commonwealth
Recorded in Misscellaneous Corporation
Records Roll No.47-17,Film 86 Filing Fee
$10.00

CBC ROLL 47 - 8 FILM

7TH The names and addresses of the first directors and their terms of office are:

Name	Address	Term of office
Peter Cooper	145 Cresent Drive, Pittsburgh 16, Pa.	1 year
G.H. Herold	1401 Park Boulevard, Pittsburgh16, Pa.	1 year
K. I. Reiter	998 Greenfield Ave., Pittsburgh 17, Pa.	1 year

8th. The names and addresses of the incorporators and the number and class of shares subscribed by each are:

Name	Address	No. and Class of Shares
Peter Cooper	145 Cresent Drive, Pittsburgh 16, Pa.	300
G. H. Herold	1401 Park Boulevard, Pittsburgh, 16, Pa.	100
K.L. Reiter	998 Greenfield Ave., Pittsburgh 17, Pa.	100

(SEAL) /s/ Peter Cooper (SEAL)
(SEAL) /s/ G. H. Herold (SEAL)
(SEAL) /s/ K.L. Reiter (SEAL)

Commonwealth of Pennaylvania }ss:

County of Allegheny

Before me, a Notary Public in and for the county aforesaid, personally came the above named, PETER COOPER, G.H. HEROLD and K. L. REITER,

Who in due form of law, acknowledged the foregoing instrument to be their act and deed for the purpose therein specified.

Witness my hand and seal of office the 28th day of March 1947

LOTTIE LOTZ, /s/ Lottie Lotz
Notary Public

LOTTIE LOTZ, Notary Public
(SEAL) My Commission Expires
JANUARY 7, 1951

Approved and filed in the Department of State, this 31st day of March 19 17 .
CBC Roll. 47-8 film 34-56 Incl. /s/_____

ARTICLES OF INCORPORATION

CBC 47-8 Film___

TO THE DEPARTMENT OF STATE:
COMMONWEALTH OF PENNSYLVANIA:

In compliance with the requirements of the

"BUSINESS CORPORATION LAW," (Act, No. 106), approved the 5th day of May, A.D. 1933, the undersigned all whom are citizens of the United States, desiring that they may be incorporated as a business corporation, do hereby testify:

1st. The name of the corporation IS NEGLEY PARK CORPORATION

2nd. The location and post office address of its initial registered office in this Commonwealth is:
1103 Law & Finance Building, Pittsburgh 19,
Number street
Allegheny County

3rd. The purpose or purposes of the corporation are:

To own, acquire, hold and improve real estate and to manage, rent and operate buildings and structures of all kinds erected thereon.

4th. The term of its existence is perpetual.

5th. The authorized capital stock of the corporation is 250.00 shares of the par value of $1.00 per share.

6th. The amount of paid in capital with which the corporation will begin business is $500.00

Printed and sold by
P. O. Naly Co.,
425 Fourth Ave.,
Pgh., PA 15219

Applicant's Account
No. 3-1-78:39
604_____
DSCB: 59-512(1-
76)
Filing Fee: $75
LTD-46

Filed this 30th day of
August, A. D. 1978.
COMMONWEALTH
OF PENNSYLVANIA
DEPARTMENT OF
STATE
/s/ Barton A Fields
SECRETARY OF THE
COMMONWEALTH

((BOX FOR
CERTIFICATION) jlw

(LINE FOR NUMBERING)
Limited Partnership Certificate 674017

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
CORPORATION BUREAU

In compliance with the requirements of 59 Pa. C.S. § 512 (relating to formation), the undersigned, desiring to form a limited partnership hereby certify that:

1. The name of the partnership is:
NEGLEY PARK, a Limited Partnership

2. The character of its business is:
Investment and reinvestment of funds in the purchase, acquisition, conversion and sale of condominiums.

3.The location of its principal place of business

is: 280 Freeport Road, Pittsburgh, Pennsylvania 15215

Address street
(City) State zip code

4. The name(s) and place of residence(s) of each general partner is (are):

NAME ADDRESS
(Including street and number, if any)

G. Brinton Motheral, III., 6020 Howe St., Pittsburgh, Pa., 15206

5. The name(s) and place of residence(s) of and the amount of cash and a description of and the agreed value of other property contributed by each limited partner is (are):

NAME ADDRESS
(Including street and number, if any)
CAPITAL CONTRIBUTION

Lytton Land Co. 490 S. Highland Ave., Pgh., Pa., 15206 $1,325.00

Parkman Land Co. 490 S. Highland Ave., Pgh., Pa., 15206 $1,325.00

Dawson-Bouquet Co. 490 S. Highland Ave., Pgh., Pa., 15206 $9,275.00

Bennett Land Co. 490 S. Highland Ave., Pgh., Pa., 15206 $1,325.00 DSCB: 58-512 (Rev. 1-78)-2 3-1-78-39 605

6. The term for which the partnership is to exist is:
Perpetual

7. The share of the profits or the other compensation by way of income which each limited partner shall receive by reason of his contribution is:

NAME	SHARE ORAMOUNT
Lytton Land Co.	3%
Parkman Land Co.	3%
Dawson-Bouquet Co.	21%
Bennett Land Co.	3%

8. Upon request of the General Partner the Limited Partners may be required to furnish additional capital contributions of $1,000.00, 70% of that $1,000.00 to be contributed by Dawson-Bouquet Co., Ten (10%) Percent to contributed by Lytton Land Co., Ten (10%) Percent contributed by Parkman Land Co., and Ten (10%) Percent to be contributed by

Bennett Land Co. The total additional capital contribution to be made by all of the Limited Partners jointly is not to exceed $5,000.00

IN TESTIMONY WHEREOF, the undersigned partners have caused this certificate to be signed this 26th day of August, 1978.

/s/ G. Brinton Motheral
Bennett Land Co. By /s/David G. Kamin
president attest

Lytton Land Co. By /s/
Presdent attest
(Signature)

Dawson-Bouquet Co. By /s/
President attest
(Signature)

Parkman Land Co. By /s/
President attest
(Signature)

INSTRUCTIONS FOR COMPLETING FORM :

A. Two or more corporations or individuals (including persons doing business as partners) may form a limited partnership, having as members one or more general partners and one or more limited partners.

B. Optional provisions authorized by 59 Pa.C.S. § 512(a)(1)(vii), (viii) and (x) to (xiv) (relating to formation may be added as Paragraphs 8, 9, 10 . . . Etc.

C. All information shall be typed or printed, in black ink.

D. Make check payable to: Secretary of the Commonwealth (CASH WILL NOT BE ACCEPTED).

E. Send certificate and check to: Corporation Bureau, Department of State Room 308 North Office Bldg., Harrisburg, Pa. 17120

MINUTES OF THE ANNUAL MEETING OF THE NEGLEY PARK CONDOMINIUM OWNERS HELD ON MONDAY, FEBRUARY 19,2007 AT 8:00 P.M. AT 1408 N. NEGLEY AVENUE PITTSBURGH, PA 15206

On Monday, February 19, 2007, commencing at 8:00 P.M. the Annual Meeting of the Negley Park Condominium Owners took place in accordance with the Amended Notice of the Meeting at 1408 N. Negley Avenue, Pittsburgh, Pennsylvania 15206. In attendance at the Meeting were Theresa R. Flati, Patricia O' Kane, Margaret Messmer and legal counsel for the condominium Association, Robert J. Garvin, Esquire. The Meeting was called to order by President Theresa R. Flati. The President observed that all Owners of the Condominium were present except for Dr. Carole L. Taylor. The President directed that the Notice of the Annual Meeting and Amended Notice of the Annual Meeting be attached to the Minutes.

The first order of business was the reading of the Minutes of the preceding Meeting of October 15, 2005. The Minutes were duly approved by the Owners present.

The next order of business was the report of the officers. Patricia O' Kane reported with

respect to the financial condition of the Condominium Association. Theresa Flati reported with respect to financial matters as well.

The next order of business was the report of committees. It was noted that there were no Association committees and therefore no reports were given.

The next order of business was to appoint Robert J. Garvin, Esquire as Inspector of Election. Upon affirmative vote of all Owners present, Robert J. Garvin, Esquire was appointed as Inspector of Election.

The next order of business was the election of officers. The positions to be filled were the offices of President, Vice President and Secretary-Treasurer. Ballots were distributed to the Owners present and turned in to the Inspector of Election. The Inspector of Election announced that Theresa R. Flati received three (3) votes for President, Margaret Messmer received three (3) votes for Vice President and Patricia O' Kane received two (2) votes for Secretary-Treasurer. Upon affirmative vote of those present, the election of the officers was confirmed.

The next order of business was

unfinished Business and none was discussed. Unfinished Business was brought to the floor

The next order of business was New Business. The first item for discussion was approval of the 2007 Budget. Margaret Messmer and Patricia O' Kane had indicated that they felt that the One Hundred Twenty-five ($125.00) Dollar monthly fees were inadequate to meet expenses and suggested that a One Hundred Fifty ($150.00) Dollar per month fee was more appropriate. Upon affirmative vote of all those present, the Budget was amended to include a One Hundred Fifth ($150.00) Dollar per month fee, with total proposed annual receipts of Seven Thousand Two Hundred ($7,200.00) Dollars and expenses of a like amount.

The next item of New Business involved amendment to the Code of Regulations, Article IX, Section 6, Sale or Lease by Unit Owner. A motion was made and approved by those Owners present to hold a Special Meeting to amend the Code of Regulations for removal of this item.

There being no further business, the Meeting was adjourned at 8:25 P.M.

/s/_____
Patricia O' Kane, Secretary

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA CIVIL DIVISION

No. GD05-11900

CAROLE L. TAYLOR)
)
Plaintiff,)
v.)
)
NEGLEY PARK)
HOMEOWNERS)
ASSOCIATION COUNCIL)
an unincorporated)
association, and)
MARGARET MESSMER)
)
Defendant,)
and)
)
MARGARET MESSMER,)
Defendant.)

ORDER OF COURT

AND NOW, this 21st day of February, 2007, the Court having received letters from Dr. Carole L. Taylor dated February 15, 2007 and February 13, 2007, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

It is unclear from the subject letters what relief Dr. Taylor is seeking and what are the material facts constituting grounds for the relief sought. No proposed order has been attached. Accordingly, said matter is DENIED without prejudice to re-presentation to the Court upon compliance with the Pennsylvania Rules of Civil Procedure and the Allegheny County Local Rules.

BY THE COURT:

Ronald W. Folino, J.

Carole L. Taylor Vs. Margaret Messmer
Case No. GD-05-11900

The council of Negley Park Condominiums Goldberg, Kamin, and Garvin are being paid for the lawsuit against the council out of the Condo Fees. The invoices with the checks copies that was given to the Plaintiff states that and the amounts from 2005 through May 2007 are presented below:

Year 2005: Negley Park the legal fees copies of the checks sent to the Plaintiff analysis

May	$1,000
June	$1,285.00 + 1,285 total $2,510.00
July	$ 437.50
August	$ 159.50
September	$ 402.50
October	
November	
December	
Total	$4,509.50

Year 2006: the legal fees copies of the checks sent to the Plaintiff analysis:

January	$ 52.50
February	$ 52.50
March	$ 227.50
April	$ 87.50
May	$ 420.00

APPENDIX S

June	$ 490.00
July	$ 385.00
August	$ 1,295.00
September	$ 1,834.90
October	$ 1,505.00
November	$ 3,850.00
December	$ 1,834.90
Total	$ 5,684.90

Year 2007 through May 2007 the legal fees copies of the checks sent to the Plaintiff

January	$ 956.00
February	$ 437.50
March	$ 700.00
April	$ 857.50
May	$ 735.00
Total	$ 3,686.00

Grand	$13,880.00

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

CIVIL DIVISION

No. GD05-11900

CAROLE L. TAYLOR)
)
Plaintiff)
v.)
)
NEGLEY PARK)
HOMEOWNERS)
ASSOCIATION COUNCIL)
an unincorporated association,)
and)
MARGARET MESSMER)
Defendant,)
and)
MARGARET MESSMER,)
Defendant.)

ORDER OF COURT

AND NOW, this 4th day of February 2008, upon consideration of Plaintiff's Petition For Rule To Show Cause Why Homeowners Council Should Not Be Held

APPENDIX T

In Contempt For Violations Of The September 11, 2006 Order Of Court, For Sanctions And Why A Hearing Should Not Be Scheduled On Plaintiff's May 14, 2007 Motion_, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

(1) A Rule is issued upon the Respondents, Negley Park Homeowners Association Council, to show cause why the Petitioner is not entitled to the relief requested in her petition;

(2) the Respondent shall file an Answer to the Petition within seven (7) days of service upon the Respondent C.P. No. 206.7;

(3) depositions shall be completed within sixty- days (60) of this date;

(4) argument shall be scheduled by praecipe requesting argument (a copy of which shall be served on this Court) upon completion of depositions (i.e., depositions must be transcribed and filed with the Prothonotary).

BY THE COURT:

/s/Ronald W. Folino, J.

THE SUPERIOR PENNSYLVANIA
OFFICE OF THE PROTHONOTARY

GRANT BUILDING
710 GRANT STREET, SUITE 600
PITTSBURGH, PA. 15219-2297

KAREN REID BRAMBLETT, ESQUIRE
(412) 565-7592
PROTHONOTARY
FAX. (412) 565- 7711

ELEANOR R. VALECKO
DEPUTY PROTHONOTARY

January 18, 2008
CAROLE L. TAYLOR
1406 N. Negley Avenue
Pittsburgh, PA 15206

IN RE: Carole L. Taylor v. Negley Park Homeowners Assoc. No. 28 WDA 2007

Dear Ms. Taylor:

The Court has entered the following Order in the above-captioned matter:

APPENDIX U

"**ORDER**

AND NOW, this 18th day of January, 2008, appellant's pro se January 16, 2008 petition for reconsideration without reargument pursuant to IOP § 65.39, seeking reconsideration of this Court's decision of December 19, 2007, is hereby DISMISSED for not being timely filed. See Pa. R.A.P. 2542 and 2547.

PER CURIAM"

Very truly yours,
/s/ ELEANOR R. VALECO

DEPUTY PROTHONOTARY

ERV: min

Cc: Honorable Ronald Folino
Robert Williams, Esquire
Robert Fall, Esquire
Robert Garvin, Esq.

Supreme Court, U.S.
FILED
APR 16 2009
OFFICE OF THE CLERK

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No. 08-936

IN THE
Supreme Court of the United States

CAROLE L. TAYLOR

Petitioner,

v.

NEGLEY PARK HOMEOWNERS ASSOCIATION, ET.AL.

Respondents,

On a Writ Of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

---

PETITION FOR REHEARING

CAROLE L. TAYLOR
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4 HFBXB

PETITION FOR REHEARING

Pursuant to Rule 44.2, Petitioner Respectfully Petition this Court for Rehearing.

The Petitioner is seeking a Rehearing of the case for consideration of Writ OF CERTIORARI for the petitioner believes it warrants a review. Taylor has been oppressed for years under the authority of the council and without dissolution of the Code of Regulation and Declaration she will continue to be oppressed. .

The Council is made up of all Caucasians The Council has been in place since 1978.

The Code of Regulations Article 9 Section 6 (refer to Appendix E), Writ of Certiorari, is written in such a way to make sure the Council are free of suit unless they act as a group or individually bad faith and self dealing, for the decision to purchase or not purchase a unit in the condominium is done by the council who are members of the State of Pennsylvania, only serve for two years, Article 1V Section (1), (refer to Appendix E), Writ of Certiorari, and thus, cannot be sued for their volunteer participation. They are not compensated for their services.

What the Petitioner did not highlight in her Writ of Certiorari was the fact that the United

States Constitution was set up to protect the rights of the minority.

The evidence of the racial discrimination is found in the council's identical Affidavits (refer to Appendix M), filed with the court June 8, 2006, stating,

> "If an election were held among the unit owners to elect a new three – person Council, I would not cast any vote in favor of electing Carole L. Taylor to serve on the Council, or in favor of any non-unit owing person that is nominated by Ms. Taylor."

The Council clearly shows their intent to discriminate against the Petitioner (the only person that is not Caucasian), not allowing her to buy the unit, but also not allowing her to have a seat on Council. This housing discrimination and oppression does not give the Petitioner a voice to decision making as the other unit owners have. This is a violation of her Constitutional Rights to Life, Liberty and the Pursuit of Happiness, under the First, Fifth, Sixth and Fourteenth Amendments.

The Petitioner is denied a quality of life, because of her disabilities. The walking up and down the steps is very difficult because of her legs and feet problems. Also, the poor lighting of one pole light makes it very difficult to see at night. So, when a first floor unit became

available, the Council discriminated against the Petitioner and refused to sell the first floor unit to her.

The all White Council denied her a first floor unit that was for sale. The Petitioner cannot be happy when she is constantly being oppressed. The Petitioner is constantly being told what to do by this all White Council, not allowing her to be on Council, thus, giving her no voice. These are constitutional rights that cannot be taken away and are guaranteed to all American citizens.

The Code, Article 9 Section 6 (refer to Appendix E), Writ of Certiorari, gives the Council the right of first refusal when any unit owner is seeking to sell their unit. Thus, giving the Council who are unit owners the power to put in the building individuals of their choice.

The Council will not exercise their right of first refusal if the unit that is for sell is purchased by another Caucasian individual.

The unit that was for sell was denied to the African, American. The third party that the Respondents want to sell it to was a Caucasian. The Council has been in place for many years and by not holding annual meetings, they have remained in place.

Since 1978 there has never been an African American living in the building. After the

Petitioner purchased her unit in 2003 the three Whites responded that they had no choice in her buying her unit for it was a special case, it was from an estate, and the Code of Regulations does not govern property that comes out of an estate, They had no choice in the decision whatsoever, as the vice president Margaret Messmer said to the court.

In addition, to the constitution protecting the rights of the minority, and discrimination in housing is also against the law.

Once again the three Caucasians women who are condo owners directly told the Petitioner that, they had no say in her (the Petitioner) buying the unit she has now, but they had a say in her buying another unit. This clearly implied that the Petitioner would not be allowed (by them) to buy another unit in the building.

Further, the Pennsylvania Superior Court's only reason for denying the appeal was that the Pennsylvania Common Pleas Court had given the Council a remedy. The remedy was to follow the Code, "Rules and Regulations" and to this day, they have not followed the Code.

However, the three owners) have not followed the remedy given to them. More importantly, March 8, 2009 there was the annual meeting and once again the Council

did not follow the rules. First, since June 1, 2005 Margaret Messmer moved out of the State of Pennsylvania, and January of 2009, Theresa Flati has not resided in her unit. Yet, both of the Council members were voted back on Council. The Code states an individual can only sit on Council for two years. Each of these individuals has served on Council for over seven (7) years.

So, even though the Lower Court, by Court Order September 11, 2006 (refer to Appendix B, Writ of Certiorari, told the Council to follow the rules they have not. This case also affects the general public at large, and can have an impact on discrimination cases in the following ways:

1. To show that housing discrimination, even when it is being disguised, is still against the law;

2. When there are written Code of Regulations and the must be followed exactly as outlined, and the Council members are not allowed to pick and choose what regulations they will follow. The Uniformity Property Act of 1980 governs the condominiums in the nation.

3. Discrimination of any kind (race, creed, religion and denomination.), is against one's Constitutional Rights.

4. The Pennsylvania Lower Court Judge should not have given the Council a remedy and offer no guidelines, as to whether or not the remedy is being followed. In this case a remedy was handed down by the Court of Common Pleas.

5. The Pennsylvania Superior Court said since there was a remedy offered that affirmed the lower court order of September 11, 2006, but no where did the court implement an offer a plan in case the remedy was not being followed by the Council.

6. Lastly, the Council is in violation of the Pennsylvania Common Pleas Court Order to follow the Code of Regulations and the Declaration. Therefore, the Petitioner respectfully requests a Writ of Certiorari for Rehearing.

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PETITION FOR REHEARING

Petitioner has been discriminated against in housing by the conduct of the respondents who worked together in concert as a council for the Negley park home owners association and that is why the petitioner filed a complaint in the Pennsylvania courts in the first place. Petitioner believes that section 42 U.S. (1982) [1] provides that all citizens Black shall have the same rights as enjoyed by White citizens regardless of what state you live.

The United States shall have the same right in every state and territory to buy, purchase, or lease a property. These given rights were supported by the United States government when first they passed the Thirteenth amendment on January 31, 1865, which abolished slavery and involuntary servitude, and again on June 13, 1866, when the Fourteenth Amendment was passed, then ratified in July 9, 1868, which not only defined citizenship, but also supports the beliefs all individuals have the rights of life, liberty and the pursuit of happiness. **Brown vs. Board of Education, 349 US 294 (1995)** [2] found that it was unconstitutional for any individual to be segregated in any school facilities whether they were unequal or the facilities where the

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1. 42 US (1982)
2. Brown vs. Board of Education. 349 US 294 (1995

same for the results were feelings of inferiority that couldn't be changed and it was unconstitutional.

In this case, the Petitioner v. Respondents uses their control as a council to violate the rights of the only Black person living there.

This Code of Regulations and Declaration that was drafted in 1978 with a particular Code Article 9 Section 6 (refer to Appendix E) Writ of Certiorari, which was put in place to avoid of being accused of discrimination for it is the council that is given the right of first refusal appears to avoid the unit owners of being accused of racism. The unit owners elect the Council; a volunteer body not compensated for their services and is to only to serve for two years.

This Council has been in place since the Petitioner purchased her place in 2003. The First Council until the first annual meeting held in 1979. the Code Article 4. Section 3 but, Article 5, Section 1 (refer to Appendix E) Writ of Certiorari, allows for four Council members, a president, a vice-president, a secretary, and a treasurer. The current Council is using the First Council of 1978 consisting of a president, vice-president, and secretary/treasure the individuals that purchased the building and

turned it into Condominiums, that is in force today. The Code would stay in place until 1979 the annual meeting to elect new council. This Council/Respondents are still in place today. The Council/Respondents has used this part of the Code, Article 4, Section 3(refer to Appendix E) Writ of Certiorari, without recognizing the Declaration states the name of the first Council. Their names are: G. Brinton Motheral III, Samuel Kamin, and Robert Kamin, the original drafters in 1978 of the Code of Regulations and Declaration, not Patricia O' Kane, Theresa Flati, and Margaret Messmer.

This building was purchased, in 1978 from another real estate company that originally called it the Negley park apartments, and the original drafters of the Code of Regulations and Declaration renamed it Negley Park Condominiums. This real estate company of three companiesimmediately sold all four (4) in 1978, but kept in place the Code and Declaration for any new owners to follow.

Therefore, the Petitioner is the odd ball out, for she purchased her unit in 2003, and the other three unit owners have been in the building since 1978, 1985, and 1998 and have been on Council since they purchased their

units. They are all Caucasians, and to this day, they make up the Council and in violation of the Code, Article 4, Section 3 (refer to Appendix E) Writ of Certiorari for you are only to serve for two years. They refused to hold an annual meeting and by so doing, they used the Code, Article 4 Section 3 (refer to Appendix E) Writ of Certiorari, as long as they didn't hold any annual meetings, they could stay on Council, forever.

Recently, the petitioner recalled an incident when she purchased her unit in 2003 and met with the council where the president out of nowhere stated, "we are all Catholics and we listen to a certain kind of music." The Petitioner said she was a Christian and there is only one God.

It is the Petitioner that is feeling repression needing to prove her oppression to show the importance of her Writ of Certiorari, because she is only one person, and her need for justice may not have the impact needed for thousands is her rights to life, liberty, and the pursuit of happiness granted by the U.S. Constitution, any less valuable, then the masses?

Why allow the continued oppression, all Americans of the rights of life, liberty and the pursuit of happiness is one of the major Amendments to the Constitution to protect the

rights of the minority against the will of the majority even though, the Petitioners rights may be limited in scope.

The U.S. Constitution was founded on discrimination of the less fortunate and what affects one individual is no less important if it affects the discrimination of thousands. You do not know if thousands who are in a similar situation is not being affected.

The Petitioner has had enough of this blatant discrimination of her rights as an unit owner and a member of the association and the petitioner will continue to be oppressed by this Code of Regulation and Declaration and the Petitioner believe will affect others who may purchase a unit in this building who are not Caucasian.

In the case, **Heart of Atlanta Motel v. United States,** 379 US 241 (1964),[3]. where the owner of the Heart of Atlanta Motel discriminated against Blacks, by not allowing them to stay at his motel. When confronted by the government concerning Congressional acts or regulations, the owner stated that he did not own an interstate business and therefore was not affected by the congressional acts or regulations.

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[3]. Heart of Atlanta Motel v United States, 379 US 241, (1964)

In a unanimous decision, the court ruled that he did have an interstate business and had to adhere to congressional acts or regulations that forbid the discrimination of individuals.

The Council's vice-president, Margaret Messmer, who had her unit for sale refused to sell it to the petitioner because she was Black. May 15, 2005 in spite of the violation of the Code, Article 9 Section 6 (refer to Appendix E) Writ of Certiorari, she attempted to sell it to a third party with a closing date set, before the Petitioner even knew about it, and this party was also Caucasian.

The Respondent Margaret Messmer when she found that the Petitioner wished to purchase the property on the first floor, because of her permanent disability, was told you are not Council, you have no vote. I will not sell my property to you and you will never be on Council.

The Petitioner is a 25% owner but did not get the opportunity in the investment, because the Council acted as the unit owners, refuse to hold annual meetings, keeping the Petitioner from ever becoming a Council member.

Margaret Messmer came back into town on (see annual minutes) February 19,2007 (refer

to Appendix Q) Writ of Certiorari, who lives in Massachusetts, purchased property in Arizona, came back into town to be reelected back on council just recently March of 2009, this same Council, the Respondents reelected themselves back on Council just to keep the Petitioner off of Council.

Margaret Messmer still lives out of the state of Pennsylvania and since June of 2005, her unit has stood empty. This is the unit that is on the first floor the Petitioner tried to buy because of her disability. Another member of Council, Theresa Flati, is said, is in a nursing home, but was voted back on Council.

It is for the Council violating the entire Code, the Petitioner is still being denied her rights to life, liberty, and the pursuit of happiness. She is respectfully, requesting a Rehearing of her Petition for Writ of Certiorari be granted.

The Respondents acts in concert with one another in all of its dealings carrying out the business affairs of the condominium in their daily activities as the Council that only have four units, Council has the majority vote the Petitioner only has one vote, Because the other three vote as a group, the Petitioner will always be controlled by the other three unit owners.

The Council to keep from keeping the common elements in a safe condition and free from any harm to the unit owners, and to ignore the Code of Regulations mandated by the Declaration to not violated Article 9 Section 3, non compliance and Article XII, Exculpability: Malfeasance and Misfeasance, (refer to Appendix E) Writ of Certiorari, acting in bad faith and self dealing.

This has gone on for many years, leaving the Petitioner perplexed as to what to do, that caused her to file a lawsuit in the first place in 2005. This oppression should not be allowed to continue, so the Petitioner is seeking a rehearing of her Writ Of Certiorari under the Constitution does not allow for discrimination as a way of oppressing any individual. The U.S. Constitution and Civil Rights Act of 1968 and 1982,[4] is in place to keep anyone from discriminating against another, and because the Petitioner is only one person, the majority unit owners are on Council, so the Petitioner has no control on how they carry out the business affairs of the condominium on a daily basis.

The Negley Park Code and Declaration of

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4. Civil Rights Act of (1968) and (1982)

Condominium Ownership provides for termination of the condominium structure in Paragraph 13, in which it authorizes termination as provided by the Unit Property Act. The Act[5]. (since repealed and replaced with the Uniform Condominium Act, 68 Pa. C. S. A. §3101,[6] but still applies to condominiums formed prior to (1980), provides for "removal" of the association upon agreement of all unit owners who are holders of a mortgage, a judgment, or other liens against the property. 68. P. S. §700.601.[7] Neither the new act nor the old act specifically provide for judicial termination.

However, Courts have the authority to review the actions of condominium councils, and to apply the principles of law, including the laws governing corporations and unincorporated associations. Specifically, in Lyman v. Boonin, 635 A. 2d 1029 (Pa.1993)[8]. This court found that when an association engages in such self-dealing or bad faith, and the Act is silent, judicial relief is available. Such is the case at bar.

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[5]. Unit Property Act (1978)

[6]. Uniform Condominium Act. 68 Pa C S.A.§3101

[7]. 68 P.S. §700-601

[8] Lyman v. Boonin, 635 A. 2d 1029 (Pa. 1993)

The record is replete with testimony that the other three owners and the members of council thwarted. Petitioner's attempt to enjoy her unit and to have the rights to life, liberty and the pursuit of happiness.

The alleged Council has and continues to engage in a systematic oppression of the Petitioner's right as a unit owner, and a member of the Association. Requiring them to adhere to the Code of Regulations does nothing even to this day to stop this oppression? The only remedy the Petitioner has is the dissolution of the condominium entity.

I. THE UNITED STATES SUPREME COURT ERRED IN DENING THE PETITIONER'S WRIT OF CERTIORARI FOR SHE BELIEVES HER TREATMENT OF DISCRIMINATION IS VALID AND HAS AN IMPACT ON HOW THE COUNCIL WILL CONTINUE TO TREAT ANYONE WHO LIVES IN A BUILDING, PURCHASED FROM A REAL ESTATE COMPANY WHO HAS PROPERTY ALL OVER THE STATE OF PENNSYLVANIA AND USE THE SAME CODE AND DECLARATION WILL FACE THE SAME PROBLEMS THE PETITIONER HAS AS A MINIORITY AND WILL ALSO BE OPPRESSED AND THAT IS

CERTAINLY NOT THE INTENT OF OUR FORE- FATHERS, WHO FRAMED THE CONSTITUTION.

II. SO THE DECISION TO NOT DISSOLVE THE ASSOCIATION, LEAVE NO MECHANISM IN PLACE TO MONITOR WHETHER OR NOT THE COUNCIL IS COMPLYING WITH THE COURT 'S ORDER OF SEPTEMBER 11, 2006, ALLOWING THE COUNCIL TO CONTINUE TO ACT IN BAD FAITH, AND SELF-DEALING.

It is clear that the evidence educed at trial is that the association and Council do not exist as entities that are permitted to bring suit in the Commonwealth of Pennsylvania, i.e. they have failed to register as required by the law. Certainly, a court, even sitting in equity, cannot be permitted to fashion a remedy, that a litigant is not legally entitled. Further, the Pennsylvania Lower Court committed an error of law by relying on Sack v. Feinman, 413 A 2d 1059 (1980)[9] The Council, who are unit owners, continues to wield its Code of Regulations with exclusion of the only other unit owner. The Council refuses to allow to participating. The only unit owner not on Council is the Petitioner who is African American. The Council has not heard or carved out fairness for all unit owners from the day the Code and

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9. Sack v. Feinman, 413 A. 2d 1059 (Pa.1980)

Declaration was invented in 1978. The Council is set up in such a way, each person has a vote, and the unit owners are made up of family. The Petitioner will never have a voice in the decision- making of the business affairs of the alleged association. The only remedy is to dissolve the Association, and form a new representation document in keeping with fairness, regarding all unit owners

Finally, the Court's ruling has overlooked the Petitioner's permanent disability keeping the Council in place, and the Code and Declaration in place. The undressed conflict should not stand.

The harm is the ignoring of the Petitioner's rights under the Constitution and the Code and Declaration, by turning a death ear to the major problems facing the Petitioner by the Council who controls the life of the Petitioner and the U.S. Constitution granted to the minority to protect against the will of the majority, that racism is against the law. The harm the Petitioner will endure to seek everyday relief, is to be forced to move. The Court had no role checking the reach of enumerated powers—and was fundamentally, in conflict with the daily actions by the Council, to conduct the business affairs of the Negley Park according to the Code and Declaration, in fairness to all unit owners. Pennsylvania Court's have found that if a governing body

either failed to act, or acted in such a manner as to substantially defeat the expectations of the members, for the "Court has authority to dissolve the entity. **Gee v. Blue Stone Heights Hunting Club, Inc.** [10] 604 A. 2d 1141 (Pa. Cmwlth, 1992). When a minority shareholder, such as Petitioner is, "oppressed," judicial relief is available. **Leech v. Leech**, [11] 762 A. 2d 718 (Pa. Super. 2000).

As a consequence, despite the court order issued on September 11, 2006,.(refer to Appendix B) Writ of Certiorari to continue to have the freedom to continue to do as they please, regardless of whom it hurt The Court's decision is not apparent from the opinion. The Petitioner believes it is from the Court's own failure to have the Council/ Respondents, believe their only real consequence from dissolving the Code and the Declaration is that the Petitioner shares the same roof, and the same garage area, which was not true regarding the garages for there are over 30 garages in the alley, in which all property owners share in the up-keep

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[10]. **Gee V. Blue Stone Heights Hunting Club, Inc.** 10 604 A. 2d 1141 (Pa. Cmwlth. 1992)

[11]. **Leech v. Leech**, 762 A. 2d 718 (Pa. Super. 2000

The Respondents/Council has been on council since 1978, another in 1985, and the third in 1998. The judicial has broad discretion to consider even the limited public concerns of one, when discrimination is practice on a daily basis that will most likely affect the masses.

The Petitioner is seeking a reversal and to remand the case back for merit consideration or dissolution of the Code and Declaration of the Negley Park) See: **Karpe v. Borough of Stroudsburg, Brodsky v. Philadelphia Athletic Club,** [12] 419 A. 2d 1285, 1287 (Pa. Super. 1980), **S.N.T. Industries, Inc. v. Geanopulos,** 516 2d 705 (1986 and **S.N.T. Industries, Inc. v. Geanopulos,** [13] 525 A. 2d 736,737-738 n. 1 (Pa. (1987) (Supreme Court reversed and remand, it back for merit consideration) Where the State Courts decided not to consider the appeal merits, the Petitioner has no adequate remedy at law except to dissolve the Code and Declaration. Petitioner Respectfully seeks U.S. Supreme Court grant the Writ of Certiorari Rehearing.

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[12] **Karpe v. Borough o Stroudsburg, Brodsky v. Philapelphia Athletic Club**
419 A. 2d 1285. 1287. (Pa Super 1980)

[13] **S.N.T. Industries, Inc. v. Geanopulos,** 516 2d 705 (1986) and **S.N.T. Industries, Inc. v. geanopuls**, 525 A. 2d 736,737-738 n. 1 (Pa. (1987)

CONCLUSION

For the foregoing reasons, the petition for rehearing on the Writ For Certiorari on April 16, 2009 should be granted.

Respectfully submitted,

Carole L. Taylor

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April 16, 2009

CERTIFICATE OF PETITIONER, *PRO SE*

As Petitioner *Pro Se*, I hereby certify that this petition for rehearing is presented in good faith and not for purposes of delay and its grounds shall be limited to intervening circumstances of a substantial or controlling effect, or to other substantial grounds not previously presented.

Carole L. Taylor

"s/" Carole L. Taylor
For Petitioner, *Pro Se*